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Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Colombia, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

[Original: Spanish]

Note verbale dated 27 December 2001 from the Permanent Mission of Colombia to the United Nations addressed to the Chairman of the Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Colombia to the United Nations has the honour to enclose the report prepared by the National Government in accordance with the timetable and terms stipulated in "Guidance for the submission of reports pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001" (see enclosure). The report contains an appendix entitled "The Road to Peace and the Strategy against Terrorism".

Enclosure

Republic of Colombia

Report to the Counter-Terrorism Committee
pursuant to paragraph 6 of Security Council resolution 1373 (2001)

		Page
I.	Introduction	4
II.	Paragraph 1 of the resolution	5
III.	Paragraph 2 of the resolution	17
IV.	Paragraph 3 of the resolution	35
V.	Other information	42

New York, 27 December 2001

Report of the Republic of Colombia to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001)

I. Introduction

1. This document includes the activities, legal provisions and measures that the Government of Colombia has been implementing with respect to the subjects dealt with in paragraphs 1, 2, 3 and 4 of Security Council resolution 1373 (2001) and refers to planned initiatives to bring Colombia's procedures and regulations into line with the international community's requirements with a view to meeting the challenges posed by terrorism.

2. Throughout the report, Colombia has adhered to the order and procedure adopted by the Counter-Terrorism Committee and incorporated in the document entitled "Guidance for the submission of reports pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001".

3. The Government of Colombia is committed to the world campaign against international terrorism in all its forms and has therefore supported the measures that the international community has considered appropriate to take in various fields. We are participating constructively in the drafting of new multilateral legal instruments, at both the international and regional levels. We have taken measures to expedite the constitutional and legal formalities required for Colombia's adherence to the relevant treaties to which it was not a party. Moreover, together with neighbouring countries, we are coordinating specific measures with the same objective of meeting the challenges of terrorism.

4. Following the reprehensible acts of 11 September 2001, and pursuant to the Security Council's adoption of its resolution 1373 (2001)—with Colombia's contribution as a member of the Council—the National Government conducted a comprehensive study of the means available to combat terrorism in its most diverse forms, and found that it had sufficient capacity to respond to the various threats posed by that phenomenon. An overall assessment of the regulations in force in Colombia, and of the measures that such regulations allow Colombia to take, leads us to believe that the State and its institutions have the means to perform many of the functions required by such a demanding and complex task. We are nevertheless convinced that additional efforts are necessary to improve and take further measures to counter the new and perverse forms of this crime. Colombia shares the sense of urgency and is aware that greater determination and, in particular, more forceful results are required; for that, multilateral action is indispensable.

5. Before September, the Government had been studying additional measures to strengthen Colombia's response capacity in order to guarantee public safety. Thus, pursuant to an act adopted by the National Congress in August 2001, a comprehensive strategy against terrorism, entitled "The Road to Peace and the Strategy against Terrorism", was adopted on 27 November 2001. Because of its importance and timeliness, that document is included in an annex to this report.

6. It is important to point out that these measures, many of which are described in detail in the body of the report, were designed for the specific purpose of effectively combating domestic acts of terrorism, that is, offences which, although corresponding to what is generally characterized as terrorism, are limited to Colombia. In a country like Colombia, affected by armed confrontation, acts occur that violate existing laws, including international humanitarian law. Such acts can be considered as acts of terrorism and are therefore subject to suppression and punishment. We are, however, certain that the laws in force in Colombia can be very useful in any response to global terrorism.

7. Colombia understands that the measures contained in Security Council resolution 1373 (2001) are aimed principally at preventing and combating acts of terrorism of international significance or global dimensions, that is, acts that constitute or may constitute, in the opinion of the Security Council, threats to peace and international security. These are extreme situations that call for the application of the system envisaged by the Charter of the United Nations for maintaining international peace and security. Such situations require, in particular, the various

bodies of the United Nations—first of all, but not exclusively, the Security Council itself—to play the role assigned to them by the Charter.

8. Colombia's legal and institutional system, which includes the international agreements to which it is a State party, guarantees that the State and its administrative and judicial authorities are capable of responding adequately to requests for assistance or cooperation that may be made by other States. The administrative authorities are prepared and have the capacity to work together, on an operational level, with their counterparts in other countries, either directly or through such institutions as the International Criminal Police Organization (Interpol).

9. Colombia, as a whole, is prepared to contribute, to the extent possible, to the world campaign against international terrorism.

10. Finally, it should be mentioned that the Government of Colombia considers the measures that it has taken or will take to combat terrorism must be in keeping with the legislation in force and with the principles and values of a State which, like Colombia, is governed by the rule of law. In particular, such measures should comply with human rights standards. Colombia is a State party to many human rights instruments, both at the international and the regional levels, and is therefore aware that it must take an appropriate and, above all, balanced approach to the requirements of providing security and protection, taking the necessary measures to prevent and suppress acts of terrorism, and complying with the legal and moral imperative to respect, in all cases, human rights and fundamental freedoms.

II. Paragraph 1 of the resolution

Resolution 1373

Paragraph 1 (a)

The Security Council ...

1. *Decides* that all States shall:

(a) Prevent and suppress the financing of terrorist acts;

Guidelines of the Counter-Terrorism Committee

What measures, if any, have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions 1 (b) to (d)?

Investigative work

11. In its efforts to prevent and suppress the financing of terrorist acts, Colombia conducts, through the Office of the Prosecutor-General, criminal investigations of persons or organizations that collect funds for criminal purposes, with a view to identifying their sources of financing.

To that end, in addition to the respective prosecutors and their assistants, investigation work is supported by the staff of the Judicial Police (investigators, accountants, economists, systems engineers and communications technicians). National Army personnel has also provided security in raids carried out by the Prosecutor's Office to obtain countable evidence and arrest persons who finance such groups.

If the Committee so requires, the Office of the Prosecutor-General is prepared to provide more detailed information on these activities.

Measures to prevent the financing of groups outside the law

12. Pursuant to its public statement to the effect that anyone who engages in attacks on the civilian population or in other similar acts is committing acts of terrorism, and with a view to making State action against perpetrators more effective, the Government of Colombia established, by its Decree No. 324 of 2000, the Centre for Coordinating the Fight against Illegal Self-Defence Groups and Other Groups Outside the Law. The Decree complements Directive No. 026 of 1995 of the Ministry of National Defence, which establishes the Inter-Agency Committee against the Financing of Guerrillas.

These two institutions, whose work is coordinated by the Ministry of National Defence, seek to coordinate inter-agency efforts to establish policies and measures to gather the necessary information to dismantle the leadership, financing and general structure of such groups. Thus, the institutions involved are able to improve intelligence investigation and prosecution activities in order to combat them, particularly in the area of finances. Both institutions are endeavouring to strengthen a database, constructed from intelligence information supplied by various State bodies. At the same time, task forces are being established in different regions of the country, composed of the commanders of the respective regional security bodies and judicial authorities who, with the support of mayors and governors, will have the necessary means to take appropriate action against these organizations outside the law.

In order to monitor and prevent terrorist activities, an early warning system, which will be discussed later in the report, is being developed. The system consists of a communications network between the community and its authorities for the purpose of ensuring effective responses.

Money Laundering Group of the Directorate of the Judicial Police

13. The National Police has also taken various measures and actions to combat the financing of terrorism, including:

- Strengthening of the Money Laundering Group of the Directorate of the Judicial Police, broadening its scope to include terrorism;

- Inter-agency activities for the exchange of information and prosecution of the crime of money-laundering in cooperation with the Information and Financial Analysis Unit of the Ministry of Finance;

- The Inter-Agency Committee against the Financing of Guerrillas, established in 1995 to gain a better understanding of this phenomenon, which acts in coordination with the Prosecutor's Office to prosecute cases by terminating property rights to such assets;

- Activities of the Committee to Combat the United Self-Defence Forces of Colombia (AUC), which was established in 2000 for the same purpose;

- Resolution 2636 of 17 July 2001 established the anti-terrorist group in the Directorate of Police Intelligence, whose functions include the conduct of technical intelligence operations with a view to suppressing and preventing the financing of terrorist groups;

- Promotion of alliances to increase information about global terrorism, particularly with respect to organizations, methods of operation and other aspects, as well as its use and/or impact in Colombia;

- Establishment of strategic alliances with other national and international intelligence agencies in order to exchange information.

Measures or mechanisms to monitor and control financiers

14. With respect to financing, Colombia, through the Ministry of Foreign Affairs and the Information and Financial Analysis Unit of the Ministry of Finance and Public Credit, has requested the various entities of the sector in question to determine whether any of the businesses or persons mentioned in the lists contained in Security Council resolutions have operated in Colombia or have carried out any international transaction with any Colombian national or business.

15. The Superintendence of Banks, a technical body attached to the Ministry of Finance and Public Credit, established by Act No. 45 of 1923, is also active in this area. The Superintendence of Banks has legal status, administrative and financial autonomy and equity capital in accordance with the provisions of Act No. 510 of 1999. By Act No. 510, the President of the Republic, as the "supreme administrative authority", in accordance with the provisions of article 189 (24) of the Colombian Constitution, performs the functions of "... *inspection, monitoring and control of persons engaged in financial, stock-market, insurance or any other activity related to the management, use or investment of resources received from the public*".

The Superintendence of Banks inspects and monitors the relevant entities in the financial, insurance, social security and foreign-exchange sectors. It engages in such supervision in order to protect public confidence in those sectors, owing to the general interest in the aforementioned activities.

16. With regard to the entities controlled and monitored by the Superintendence of Banks, measures have been adopted to prevent and suppress the financing of terrorist acts and of persons who commit such acts.

Articles 102 to 107 of the Organic Statute of the Financial System—Decree-Law 663 of 1993—and section one, chapter nine, paragraph 6, of External Circular No. 07 of 1996 issued by the Superintendence of Banks, require the entities monitored by the Superintendence to establish mechanisms to control and prevent money-laundering.

Such entities are required to adopt appropriate and adequate control mechanisms to prevent their operations from being utilized in any way to conceal, manage, invest or use money or other assets derived from criminal activities, or to give the appearance of legality to criminal activities or transactions and funds related to such activities (art. 102, para. 1, of the Organic Statute of the Financial System).

17. For such purposes, illicit assets mean the proceeds of any crime, including the crime of terrorism and other criminal acts.

Such mechanisms should allow them, as a minimum, to carry out the following tasks:

- Obtain an adequate knowledge of the client;
- Detect unusual transactions;
- Report suspicious transactions;
- Maintain documents for up to 10 years;
- Adopt the necessary mechanisms and procedures within the monitored entities that enable them to protect themselves effectively;
- Designate an executive officer to oversee the effectiveness of such mechanisms and procedures; and
- Ensure the proactive participation of the entity's administrative bodies.

The aforementioned controls have a number of objectives:

- Preserve the public's and the international community's confidence in the Colombian financial, insurance, social security and foreign-exchange systems;

- Combat crime by preventing it; and

- Cooperate with the judiciary by facilitating the work of control and monitoring bodies, investigation agencies and judicial authorities.

18. The proper exercise of the aforementioned controls by monitored entities will help to prevent them from being used to channel assets derived from illicit acts, such as the crime of terrorism, and to detect incidents or unusual situations that indicate that such entities are being used to finance terrorist acts or to place, by any means, money or financial resources at the disposal of the persons who commit, or intend to commit, acts of terrorism.

In particular, the detection and analysis of an unusual transaction and the identification and reporting of a suspicious operation to the Information and Financial Analysis Unit enable the monitored entities to prevent the channelling of money for any of the activities enumerated in paragraph 1 (a) and (d) of Security Council resolution 1373 (2001), and will enable the Colombian investigative and judicial authorities to take the necessary steps to freeze assets, identify and sentence those responsible for the crime of terrorism and related offences.

It should be noted that failure to fulfil the aforementioned obligations is punishable by institutional fines of up to Col$ 1.622 billion and the possible revocation of authorization to operate, and by personal fines of up to Col$ 81.1 billion and the possible immediate dismissal of the responsible official. The foregoing measures, when pronounced by an administrative authority, are public and can be made known to all the monitored entities. This does not preclude the liability of such entities under criminal law for the same acts.

19. Moreover, the Superintendence of Banks has issued Circular No. 55 of 23 April 2001 and Circular No. 143 of 14 November 2001, in which it transmitted to all monitored entities the list of persons with relations to the Taliban and to the terrorist Osama bin Laden and the organization Al-Qa'idah, on which the Security Council imposed sanctions in its resolutions 1267 (1999) and 1333 (2000).

Exchange of information and intelligence

20. The main task of the Administrative Department of Security is, in general, to strengthen the exchange of information and coordination of activities with other national and international intelligence agencies in order to provide maximum coverage in efforts to suppress and prevent the financing of terrorist organizations.

Within its competence and through its various specialized areas, the Administrative Department of Security has increased the investigation of offences which, in one way or another, are directly related to terrorist activities, such as drug trafficking, trafficking in weapons, ammunition and explosives, trafficking in chemical substances and supplies, and money-laundering.

Other measures—Interpol

21. The sixty-eighth session of the General Assembly of the International Criminal Police Organization (Interpol), which was held in November 1999 and in which Colombia participated, dealt with the issue of the financing of terrorism and submitted various proposals to the United Nations on including Interpol as a possible means of transmitting information among States parties. This proposal was included in article 18 of the International Convention for the Suppression of the Financing of Terrorism, which was adopted in 1999. This established a priority in the search for and exchange of information on the transfer of assets linked to terrorist activities, with a view to freezing such assets and preventing the funding of terrorism.

The Interpol Subdirectorate, which is a unit of the Administrative Department of Security, cooperates in measures to prevent and suppress terrorist acts in accordance with the Guidelines for Cooperation in Combating International Terrorism adopted by the Interpol General Assembly, and looks forward to the implementation of new provisions in this field, in accordance with the results of the recent seventieth session of the General Assembly of Interpol. At its seventieth session, the Interpol General Assembly called for the study of every aspect of terrorism and support for terrorist activities (funding, logistical support, etc) in order to ensure an adequate response to all types of terrorist acts by seeking to coordinate legal, judicial and operational aspects.

At its seventieth session, the Interpol General Assembly called for the establishment, as the principal means of combating terrorism, robust systems for monitoring financial transactions that could be linked to terrorist activities, in order to improve the ability of competent authorities to freeze financial assets and so prevent the funding of terrorism. As soon as such measures are taken, the competent national authorities will be informed with a view to coordinating relevant action.

Resolution 1373

Paragraph 1 (b)

The Security Council ...

1. *Decides* that all States shall:

(b) Criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;

Guidelines of the Counter-Terrorism Committee

What are the offences and penalties in your country with respect to the activities listed in this subparagraph?

22. Colombian legislation defines such activities in articles 323 and 345 of the Penal Code, which read as follows:

"**Article 323. Money-laundering.** Any person who acquires, protects, invests, transports, converts, holds for safekeeping or manages assets originating, directly or indirectly, from the activities of extortion, illicit enrichment, extortive kidnapping, rebellion, arms trafficking, crimes against the financial system or public administration, or linked to proceeds of crime that are the object of a conspiracy to commit an offence, or activities related to trafficking in toxic or narcotic drugs or psychotropic substances, or gives assets derived from such activities the appearance of legality or legalizes them, conceals or disguises the true nature, origin, location, destination, movement or rights to such assets, or commits any other act for the purpose of concealing or disguising their illicit origin shall, by that act alone, be liable to a term of imprisonment of between six (6) and fifteen (15) years and a fine of between five hundred (500) and fifty thousand (50,000) times the minimum statutory monthly wage.

"The same penalty shall apply when any form of conduct described in the preceding paragraph is carried out in respect of assets ownership of which has been declared to be terminated.

"Money-laundering shall be punishable even when the activities from which the assets are derived, or the acts punished in the preceding paragraphs, have been carried out, in whole or in part, in a foreign country.

"The penalties involving deprivation of liberty provided for in this article shall be increased by one third to one half when such acts involved exchange or foreign trade transactions or when goods were imported into the national territory.

"The increased penalty provided for in the preceding paragraph shall also apply when contraband goods have been imported into the national territory."

"**Article 345. Management of resources linked to terrorist activities.** Any person who manages money or assets linked to terrorist activities shall be liable to a term of imprisonment of between six (6) and twelve (12) years and a fine of between two hundred (200) and ten thousand (10,000) times the minimum statutory monthly wage."

23. Article 327 of the Penal Code, which is reproduced below, defines the illicit enrichment of individuals. The definition of this criminal offence has contributed decisively to combating various forms of criminal conduct, including terrorism.

"**Article 327. Illicit enrichment of individuals.** Any person who, directly or through another person, obtains, for himself or for another person, an unsubstantiated increase in assets deriving in one way or another from criminal activities shall, by that act alone, be liable to a term of imprisonment of between six (6) and ten (10) years and a fine equivalent to twice the value of the illicit increase in assets, but shall not exceed the equivalent of fifty thousand (50,000) times the minimum statutory monthly wage."

24. Act No. 418 of 1997, amended and extended by Act No. 548 of 1999 and Act No. 642 of 2001, contained a section entitled "Control over the financing of activities of armed organizations outside the law". The most important aspects of this legislation include:

- Monitoring of the use of resources of territorial entities or managed by such entities (articles 84 to 89);
- Penalties for contractors (articles 90 to 95);
- Freezing and termination of ownership rights to assets linked to the commission of offences within the competence of investigating judges (articles 96 to 98).

25. It should be noted that Decree No. 663 of 1993, in its article 102 entitled "Obligation and monitoring of criminal activities", deals with the obligation of the entities subject to control and monitoring by the Superintendence of Banks to adopt appropriate and sufficient monitoring measures in order to prevent operations conducted by such entities from being utilized in any way to conceal, manage, invest or use money or other assets derived from criminal activities. Article 105 of the same Decree provides that information concerning suspicious transactions that is reported to the authorities shall be confidential.

26. Similarly, under article 325 of the Penal Code, any employee or director of a financial institution or savings and loan cooperative who, with a view to concealing or disguising the illicit origin of the money, fails to comply with the control mechanisms established by the legal system with respect to cash transactions, shall be liable to a term of imprisonment of between two and six years and a fine of between 100 and 10,000 times the minimum statutory monthly wage.

27. Likewise, the National Government has, in the document entitled "The Road to Peace and the Strategy against Terrorism", which was submitted to the Congress of the Republic on 27 November 2001, provided for a series of measures to prevent and punish terrorist acts. As mentioned in paragraph 5 above, that document is annexed to this report.

Intelligence and Financial Analysis Unit

28. Act No. 526 of 1999 established the Special Administrative Unit for Information and Financial Analysis as the State institution responsible for centralizing, systematizing and analysing data relating to money-laundering operations. In other words, the Unit serves as a filter for information, supported by advanced technology, which consolidates and enriches the aforementioned data, making it possible to detect economic operations presumed to be linked to the crime of money-laundering. In order to facilitate this task, Act No. 526 of 1999 gave the Unit the power of State intervention, specifically as relates to the detection of practices associated with money-laundering. Thus, the results of the Unit's activities are transmitted to the Office of the Prosecutor-General for possible judicial action.

It should be emphasized that the Unit was established with the support of the World Bank, in accordance with the 40 recommendations of the Financial Action Task Force on Money Laundering and the guidelines of the Egmont Group.

Resolution 1373

Paragraph 1 (c)

The Security Council ...

1. *Decides* that all States shall:

(c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;

Guidelines of the Counter-Terrorism Committee

What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.

General framework

29. In Colombia, there are no *administrative* provisions for expropriating assets linked to criminal activities (assets per se, means, instrument, effect or product of a crime). Any measure taken to obtain for the State the confiscation or termination of ownership—freezing, attachment, seizure, arrest, possession or suspension of dispositive power—of assets linked to illicit activities, must be taken exclusively through judicial channels, in accordance with the provision on termination of ownership rights contained in article 34 of the Political Constitution.

The ownership rights that a person has with respect to money deposited in an account or any financial proceeds must comply with the general rule contained in article 58 of the Political Constitution; that is, such rights must comply with their social function, which entails obligations. An offence constitutes a restriction on that right, since national legislation does not recognize constitutional protection for assets intended for use in the commission of criminal activities or which constitute the procedure of criminal activities, in accordance with the provisions of article 34 of the Constitution.

In this regard, it should be emphasized that, under the Colombian legal system, the acquisition of property with illicit resources cannot under any circumstances result in a legitimate right to ownership of such property. The regulations described in this section of the report seek to guarantee the application of this general principle.

Penal legislation

30. With regard to law enforcement measures, Colombia's new Penal Code establishes as punishable offences a number of acts relating to the economic and financial aspects of terrorist activities, such as money-laundering (article 323), conspiracy to commit an offence (article 340), terrorism (article 343) and the management of resources linked to terrorist activities (article 345).

31. The Congress of the Republic recently approved draft act No. 076 of 2000, "establishing measures to eliminate the crimes of kidnapping, terrorism and extortion and promulgating other measures". The draft act considers the crimes of extortive kidnapping and extortion as ancillary to the crime of setting up dummy accounts, crimes which are punishable by confiscation of property, and denies offences such as terrorism any advantage or subrogation, reduction of sentence, amnesty or pardon, or of the possibility of being considered as crimes related to political offences. The draft is currently awaiting presidential approval, at which time it will become an Act of the Republic.

32. Article 100 of the new Penal Code and article 67 of the new Code of Criminal Procedure contain the definition of confiscation, which provides that the instruments and assets used to commit the punishable act, or which are derived from the commission of such act and which are not freely tradable, shall be appropriated by the Office of the Prosecutor-General or to an entity designated by that Office, unless the law provides for their destruction or different disposition. A similar measure is applied to intentional offences, when the assets that are freely tradable and belong to the criminally liable person are used to commit a punishable act, or are derived from the commission of such act.

Measures to expropriate assets

33. As indicated above, activities that are related to criminal acts, including terrorism, can be the object of *confiscation* within a criminal procedure, in accordance with the provisions of article 67 of the Code of Criminal Procedure. In accordance with this regulation, if the money or assets intended for financing, supporting or managing terrorist activities are material objects of the crime, the State, through the legal definition of confiscation and in the context of a criminal procedure, can claim such assets.

34. Since confiscation is a punitive measure, the procedure to be followed in expropriating the assets requires a judicial decision (seizure warrant), specifically a judicial order issued as part of a criminal procedure in accordance with the regulations and authority established in the Code of Criminal Procedure.

Criminal confiscation is a limited instrument, since it involves only property belonging to the criminally liable person. However, this difficulty can be overcome if recourse is had to the application of Act No. 333 of 1996; specifically, reason 4 of article 2 of the Act refers to the circumstances that warrant criminal confiscation, by establishing as grounds "... *Cases in which assets are used as a means or as instruments to commit criminal acts or which are intended for such purpose, unless they are subject to confiscation or seizure in the context of a criminal procedure in accordance with an enforceable judicial decision*".

The advantages of the termination procedure over the confiscation procedure are well known, since termination of ownership takes place independently of the owner's criminal liability. It would be necessary only to establish the admissibility of the action by demonstrating, through the provision of evidence, the grounds (assets and criminal activities), the title to the assets or financial income, and the relation of the owner to such grounds.

35. With regard to *termination of ownership rights*, when acquisition of assets is one of the consequences of the crime, this requires a judicial decision and, therefore, should follow the relevant procedure set out in article 15 of

Act No. 333 of 1996. Article 2 of the Act provides that a judicial decision can declare the termination of ownership of illicitly acquired assets, provided that such assets are derived from activities that cause a serious decline in social morality.

36. It should be emphasized that there is a draft act on this subject, "regulating procedures for obtaining international assistance in the execution of provisional or final measures relating to the right of ownership and the division of property, and promulgating other measures", which will be submitted to the Council on Criminal Policy in January 2002. The draft act includes measures that would amend the act on termination of ownership rights (Act No. 333 of 1996) with a view to including, as a matter of fundamental importance, what is commonly referred to as *organized crime*.

It may therefore be concluded that Colombian legislation seeks to comply with the objective of suppressing the financial and economic proceeds of the crime of terrorism not only by means of *confiscation* and *termination of ownership* but also through punishment (not direct but indirect), with the criminal offences of *money-laundering* and *conspiracy to commit an offence*: the first, which has as an underlying factor conspiracy to commit an offence and suppresses the laundering of assets obtained from such conduct, and the second, which classifies the financing of terrorist activities as an object of reproach.

37. With regard to existing measures for prohibiting persons from placing funds or financial or economic resources, directly or indirectly, at the disposal of terrorists, attention should be drawn to the financial sector's system of self-regulation and the punitive provisions of the Penal Code.

In Colombia, there is social control of the circulation of money. Social control is the product of the social responsibility of trade-union and financial sectors in accordance with the objectives of protecting the collective interest of the State.

System for preventing and monitoring money-laundering

38. The financial sector, faced with the need to monitor great risks, maintain the confidence of the public and investors and prevent fraud and loss of assets, and faced with the imminent threat of administrative sanctions for having been infiltrated by criminal organizations, on its own initiative, has arrived at an understanding of social responsibility that will assist it in combating the phenomenon of money-laundering. The adoption, on 21 October 1992, of a code of conduct for members of the Banking Association and Colombian financial entities helped to lay the foundations of the current system for preventing and monitoring money-laundering.

Organic Statute of the Financial System

39. For its part, Colombia, through the mandate established in article 335 of the Political Constitution, which seeks to safeguard the public interest, which may be threatened by the circulation of illicit money, has intervened in the exercise of financial, stock-market, insurance and all other activities related to the management, use or investment of resources received from citizens—activities which are considered to be in the public interest. For this reason, it approved the principles relating to the self-regulation of the financial system and issued Decree No. 1872 of 1992, which was incorporated into articles 102 to 107 of the Organic Statute of the Financial System under the section entitled "Prevention of Criminal Activities".

This regulation incorporates the principles and the requirements of knowing one's clients, reporting suspicious transactions, adopting codes of conduct, implementing the Integrated System for the Prevention of Money Laundering, maintaining the confidentiality of reported information and cooperating with the Office of the Prosecutor-General.

40. These principles are not aimed exclusively at preventing money-laundering, since they have also been adopted for the purpose of preventing other activities, such as illicit trafficking in weapons and explosives, in accordance with the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms,

Ammunition, Explosives and Other Related Materials, adopted in Washington, D.C., on 14 November 1997, which recognizes that knowledge of one's customers is a means of preventing crime.

System of self-regulation of the financial system

41. The system of self-regulation of the financial system can help to prevent the financing of terrorist activities with the same vigour with which it has been used to combat money-laundering, particularly when such obligations are applied to the stock-market, cooperative and foreign-trade sectors. It is necessary to draw attention to the work carried out by the Information and Financial Analysis Unit, within the system of prevention and monitoring, since the purpose of the Unit is to detect, prevent and, in general, suppress money-laundering in all economic activities. To that end, the Unit centralizes, systematizes and analyses information collected pursuant to articles 102 to 107 of the Organic Statute of the Financial System and its regulations concerning remand, tax and customs regulations and other information known to State or private entities that may be linked to money-laundering operations, some of which may be attributed to the operations of terrorist groups.

The foregoing will have greater relevance if one bears in mind that money-laundering involves such ancillary offences as various acts directly related to terrorism, namely, conspiracy to commit an offence (including the financing of terrorists), extortive kidnapping, rebellion and arms trafficking.

Resolution 1373

Paragraph 1 (d)

The Security Council ...

1. Decides that all States shall:

(d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons;

Guidelines of the Counter-Terrorism Committee

What measures exist to prohibit the activities listed in this subparagraph?

42. Articles 340 and 341 of the Penal Code contain measures to prevent nationals of a country or persons or entities of that territory from making any funds, economic or financial resources or financial or related services available to persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts.

> "**Article 340. Conspiracy to commit an offence**. When a number of persons conspire for the purpose of committing offences, each of them shall, by that act alone, be punished with a term of imprisonment of between three (3) and six (6) years.
>
> "When the conspiracy involves the commission of the crimes of genocide, enforced disappearance, torture, forced displacement, homicide, *terrorism*, drug trafficking, extortive kidnapping, extortion or the organization, promotion, arming or financing of armed groups outside the law, the punishment shall be a term of imprisonment of between six (6) and twelve (12) years and a fine of between two thousand (2,000) and twenty thousand (20,000) times the minimum statutory monthly wage.

"The punishment of deprivation of liberty shall be increased by one half for any person who organizes, encourages, promotes, directs, heads, establishes or finances a conspiracy or association for the purpose of committing an offence." [The italics are ours.]

"**Article 341. Training for illicit activities**. Any person who organizes, instructs, trains or equips persons in military tactics, techniques or methods of conducting terrorist activities, or forming or hiring death squads, private justice groups or bands of murderers shall be liable to a term of imprisonment of between fifteen (15) and twenty (20) years and a fine of between one thousand (1,000) and twenty thousand (20,000) times the minimum statutory monthly wage."

43. Article 345 defines the crime of management of resources related to terrorist activities:

"**Article 345. Management of resources linked to terrorist activities**. Any person who manages money or assets linked to terrorist activities shall be liable to a term of imprisonment of between six (6) and twelve (12) years and a fine of between two hundred (200) and ten thousand (10,000) times the minimum statutory wage."

44. The crime of money-laundering is an autonomous act that relates to assets linked, inter alia, to the proceeds of offences that are the object of a conspiracy to commit an offence, which includes terrorism. Such unlawful acts may make it possible to freeze the resources, accounts or assets of the persons involved.

45. Likewise, it is useful to reiterate what has already been said in connection with Decree No. 663 of 1993 which, in its article 102 entitled "Obligation to monitor criminal activities", deals with the obligation of the entities subject to control and monitoring by the Superintendence of Banks to adopt appropriate and sufficient monitoring measures in order to prevent operations conducted by such entities from being utilized in any way as to conceal, manage, invest or use money or other assets derived from criminal activities. Article 105 of the same Decree provides that information concerning suspicious transactions that is reported to the authorities shall be confidential.

46. Similarly, under article 325 of the Penal Code, any employee or director of a financial institution or savings and loan cooperatives who, with a view to concealing or disguising the illicit origin of the money, fails to comply with the control mechanisms established by the legal system with respect to cash transactions, shall be liable to a term of imprisonment of between two and six years and a fine of between 100 and 10,000 times the minimum statutory monthly wage.

47. There are also other provisions, different from those in article 345 of the Penal Code, that aim to achieve that purpose; they are incorporated in the Code of Criminal Procedure: article 60 on freezing and seizure of assets in a sufficient amount to guarantee payment for the damage caused by the commission of the offence; article 62 on the prohibition against transferring immovable property subject to registration the year following the involvement of the defendant in the criminal procedure; article 65 provides for the revocation of the legal status of companies or organizations involved in criminal activities, or the closing of their premises or establishments open to the public; article 67 authorizes the confiscation of the instruments and assets with which the punishable act was presumably committed or which might be the product of the commission of such act; and article 68 provides for termination of ownership (this provision is complemented by Act No. 333 of 1996 on termination of ownership).

State policy measures

48. Colombia promotes action to strengthen coordination and harmonious cooperation among entities[1] involved in the management of assets and financial activities in order to counter any terrorist activities that can result from them. The aim is to integrate information and intelligence gathered with other agencies and clearly establish entities, jurisdictions and responsibilities.

Colombian policy in this area includes the following points:

- Preparation of a list of fundamental principles that make it possible to identify persons, assets and organizations involved in terrorist activities, beginning with a clear definition of such activities;
- Training of the specialized personnel of entities responsible for detecting and monitoring operations linked to terrorist activities;
- Preparation of an integrated system for monitoring bank assets, stock-market transactions, international trade transactions, foreign-exchange transactions and the activities of businesses or companies;
- Creation of specialized areas in each of the entities responsible for preventing, monitoring and controlling the aforementioned activities;
- Identification of legal mechanisms that can reduce the length of proceedings, with a view to expediting the process of termination of ownership and thereby neutralizing the activities of terrorist organizations;
- Institutionalization of channels of communication for the exchange of information and procedural evidence with national authorities, private businesses and unions;
- Focus on sectors likely to be used for money-laundering or other operations that help to strengthen terrorist activity;
- Revision of criminal offences associated with operations that help to strengthen terrorist activity; determination of punishment, aggravating circumstances and procedural measures and investigation techniques that can establish links and lead to termination of ownership.

This improvement of institutional ties, added to a policy like the aforementioned and to the strengthening of the legal instruments currently in force, will enable State institutions to guarantee the successful confiscation of assets used in terrorist activities or used to finance such activities, and termination of ownership with respect to such assets.

49. In order to protect municipal and departmental finances, the Special Public Audit Unit of the Ministry of the Interior will be strengthened, since one of the purposes of the Unit is to prevent individuals and/or groups engaged in terrorist activities from stealing, in order to bolster their finances, any of the financial resources of municipalities or departments, through armed coercion or threats against public officials or State contractors. The

[1] Ministry of Finance and Public Credit through the Special Administrative Units attached to the Ministry, the Information and Financial Analysis Unit and the Directorate of National Taxes and Customs, as well as through the Superintendence of Banks and the Superintendence of Securities; Ministry of Justice and Law, National Penitentiary and Prison Institute; National Narcotics Directorate; Superintendence of Notaries and Registries; Ministry of National Defence, National Army, National Navy, Air Force and National Police; Office of the Prosecutor-General of the Nation; National Unit of Inspector's Offices for Termination of Ownership Rights and Suppression of Money Laundering; Administrative Department of Security; Colombian Foreign Trade Institute; Superior Judiciary Council; Bank of the Republic; Superintendence of Companies; and municipal and departmental authorities.

Special Public Audit Unit, which is an administrative body, carries out preventive measures and audits territorial entities at the request of communities or when it receives information from State security bodies, and will strengthen its coordination mechanisms with the Office of the Auditor-General.

When this Unit detects that public resources are being filtered to groups and/or individuals engaged in terrorist activities, it can recommend to the Ministry of the Interior to establish an investigative group comprised of the Office of the Prosecutor-General, the Office of the Auditor-General and the Ministry of the Interior in order to prevent that offence from continuing, without prejudice to the relevant investigations into the liability or complicity or criminal intent of the local officials involved.

Citizens' supervision of the management of public funds, as well as inter-agency cooperation for the purpose of improving methods of accessing and programming public funds, and the inclusion of contractors in the process of increasing transparency in the allocation and management of such funds will also be promoted.

Similarly, the collection and allocation of resources of the Security Funds will be made stricter, ensuring that all the resources ordered by law are placed in such funds, and that they are invested in areas directly related to public safety. Municipal and departmental safety councils will participate actively in the management and allocation of such resources.

III. Paragraph 2 of the resolution

Resolution 1373

Paragraph 2 (a)

The Security Council ...

2. ***Decides also*** **that all States shall:**

(a) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists;

Guidelines of the Counter-Terrorism Committee

What legislation or other measures are in place to give effect to this subparagraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

Criminal classification

50. The following provisions, currently in force, may be cited:

In the case of *conspiracy to commit an offence*, contained in article 340 of the Penal Code, the organization, arming or financing of armed groups outside the law is punishable by a term of imprisonment of between six (6) and twelve (12) years.

Article 182 of the Penal Code provides for a term of imprisonment of between one and two years for anyone who forces another person to do, condone or fail to do anything, a penalty that will be increased by between one third and one half (article 183) when the objective pursued by the perpetrator is of a terrorist nature.

Article 184 of the Penal Code provides that anyone who forces another person to commit a punishable act, provided that such act does not constitute an offence that entails a higher degree of punishment, shall be liable to a term of imprisonment of between one and three years. In conformity with article 185, that punishment will be increased by between one third and one half when the objective of the act is to induce persons to become members of terrorist groups, groups of hired murderers, death squads or private justice groups, or when the persons who are the objects of the act are minors under eighteen (18) years of age, active or retired law enforcement officers or members of State security bodies.

51. Similarly, article 341 and 342 of the Penal Code provide for high penalties for persons who organize, instruct and train persons for the purpose of carrying out terrorist activities. Article 342 establishes as an aggravating circumstance the fact that such acts are committed by law enforcement agents or by members of State security bodies. The aforementioned articles are as follows:

> "**Article 341. Training for illicit activities**. Any person who organizes, instructs, trains or equips persons in military tactics, techniques or methods of conducting terrorist activities, or forming or hiring death squads, private justice groups or bands of murderers, shall be liable to a term of imprisonment of between fifteen (15) and twenty (20) years and a fine of between one thousand (1,000) and twenty thousand (20,000) times the minimum statutory monthly wage."

> "**Article 342. Aggravating circumstance**. When the acts described in the preceding articles are committed by active or retired law enforcement agents or by members of State security bodies, the punishment will be increased by between one third and one half."

52. In addition, recruitment of members of terrorist groups is combated in Colombian criminal legislation by article 348 of the Penal Code relating to "instigation to commit an offence". Paragraph 2 of that article establishes as an aggravating circumstance engagement in conduct for the purpose of committing, inter alia, terrorist acts.

Act No. 684 of 2000, "establishing regulations for the organization and operation of national security and defence and promulgating other measures", creates new legal instruments and important institutional mechanisms for strengthening the State's capacity to combat terrorism with the support of civil society and the cooperation of the international community. Pursuant to this Act, the Government of Colombia submitted to the Congress of the Republic a strategy for combating terrorism, which is referred to in other parts of this report.

Eliminating the supply of weapons

53. With regard to the supply of weapons to terrorist groups, article 223 of the Constitution provides that only the Government can make available and manufacture weapons, ammunition and explosives. Pursuant to that constitutional principle, article 365 of the Penal Code punishes the manufacture, trafficking and carrying of firearms and ammunition, and article 366 punishes the manufacture, trafficking and carrying of weapons of the armed forces. Article 367 of the Penal Code punishes the manufacture, import, trafficking, possession and use of chemical, biological and nuclear weapons.

In the Directorate of the Judicial Police, the Illicit Weapons Group has been in operation for a decade. The Group is responsible for directing, at the national level, the work of the police in the area of illicit arms trafficking, routes used by traffickers and the conduct of seizure procedures, acting in coordination with police forces in other countries.

Since the establishment, in 1995, of the Directorate of Police Intelligence, a work plan, known as Action of the Intelligence Service, has been in operation in order to combat the threat of the *three Ts*: Terrorism, Traffic in narcotics and Traffic in weapons. The plan gives priority to the collection of information and production of intelligence, always in coordination with other bodies and agencies, particularly those in North America and Europe. This work has been carried out within the framework of international alliances and, in October 2001, the

institution's authorities decided to establish a national Anti-Terrorist Group, which has already begun work and will serve as the basis for the creation of a Counter-Terrorism Directorate in 2002.

54. With regard to the supply of weapons to terrorists, the Inter-Agency Group for Analysis of Terrorist Activities has existed since 1993. The Group is composed of officials of the Administrative Department of Security, the National Police and the Army. Its principal task is to gather information at the national level regarding seizure of weapons, establish their origin and the route by which they entered the illegal market, as well as terrorist incidents that occur at the national level. Weapons manufactured in or imported from the United States of America are tracked by the Directorate of Alcohol, Tobacco and Firearms, which has its headquarters in Bogotá; weapons manufactured in other countries are tracked by Interpol. Tracking involves not only the person who sold the weapons and the route that such weapons followed, but also the verification of the businesses and persons that facilitate such traffic. Many of the weapons that have recently been seized were legally purchased but were diverted for illicit purposes in exchange for money or drugs. There is also coordination with the Illegally Armed Persons Group of the Directorate of the Judicial Police, the Directorate of Naval Intelligence and the Directorate of Air Force Intelligence.

55. With regard to firearms, there is a policy of restricting the bearing of arms in the territories of 59 municipalities with high crime rates. In addition, in order to reduce the impunity of this type of offence and suppress illicit weapons, the National System of Criminal Ballistics Registry has been established; the System is composed of four judicial police institutions engaged in the investigation of weapons, bullets and cartridges.

56. In order to improve international assistance in tracing firearms, ammunition and explosives, the General Secretariat of Interpol has decided to incorporate the database, known as the Interpol Weapons and Explosives Tracking System (IWETS), to the central base of the International Criminal Intelligence System in order to locate all existing information contributed by each country concerning seized and stolen weapons. In this way, the information becomes part of the system and, if there are links to other types of criminal activity, such information is provided immediately to the requesting country.

57. In addition, measures are being strengthened to prevent illicit traffic in drugs, weapons, ammunition and explosives, which in large measure are intended to provide groups engaged in terrorist activities with operational capabilities or economic resources.

Work of the National Police

58. In order to ensure the lives and property of citizens, the National Police exercises strict control throughout the national territory, particularly in areas under the influence of illegal armed groups, with a view to preventing support for, and the provision of assets and resources to, these outlawed groups.

Internally, the National Police has strengthened measures to prevent members of the institution from becoming involved, either through their actions or by their failure to take action, with illegal armed groups, and to monitor such behaviour. To that end, it has strengthened its counter-intelligence groups and issued the relevant instructions and circulars.

Work of the Administrative Department of Security and Interpol

59. Within the competence of the Administrative Department of Security with respect to existing measures for conducting activities to combat terrorism, the national Administrative Department of Security, through the Interpol Subdirectorate, has been working with countries members of Interpol (today 179) to implement and improve exchange of information with a view to identifying existing terrorist groups and persons and entities that may provide support for such groups, in any way that might enable them to commit terrorist acts. In addition, the intelligence units and other specialized groups of other institutions responsible for suppressing and preventing crime coordinate their activities through Interpol channels.

There is direct liaison between the Directorate of Intelligence of the Administrative Department of Security as such, the National Police, the Army, the Navy and the Air Force, through which information is exchanged concerning the presence in Colombia of persons of various nationalities suspected of belonging to international criminal organizations so that, through the Interpol database, immediate consultations can be held and the identity of such persons, their background and possible international records can be established. Such consultations are made using the Interpol X-400 system, and the country of origin of the person(s) under investigation is also consulted.

Other measures

60. There is also the Group of Special Urban Counter-Terrorism Forces, composed of members of the three branches of the armed forces, which are under the authority of the General Command of Military Forces and operate at the national level under its direction. There are also special task forces of the National Police, which operate at the national level under the orders of the Directorate-General of the National Police.

61. It should be pointed out that, in order to deal with threats of international bioterrorism, the Government of Colombia and its security bodies have established an elite group composed of members of the Ministry of Defence, the Ministry of Justice, the Ministry of Health, the Office of the Prosecutor-General, the Administrative Department of Security and the National Police. The Group will have the support and advisory assistance of the Federal Bureau of Investigation (FBI).

62. In addition, the Administrative Department of Security has the Public Safety and Human Rights Group, which operates under the authority of the Coordinating Agency of the Judicial Police. The Group deals with such offences as kidnapping, threats made to prominent persons, and arms trafficking. The Department also serves as headquarters for the Inter-Agency Group for Analysis of Terrorist Activities and the Crimes against Public Safety Unit of the Operational Directorate-General of the Administrative Department of Security. Decree No. 218 of 2000 established that Unit to investigate crimes of terrorism, conspiracy to commit an offence, and public danger.

63. The Directorate-General of Intelligence of the Administrative Department of Security gathers information on the activities of criminal groups through its network of informers, processes the information and disseminates it to such bodies as sectional directorates of the Administrative Department of Security, the Police and the Office of the Prosecutor-General, as appropriate, in order to enable them to take preventive measures.

Moreover, databases are kept up to date on strategic inventories, service records and other pertinent data on the principal groups of irregulars who carry out destabilizing acts in Colombia, as well as on groups engaged in organized crime and common offences.

64. The Administrative Department of Security also verifies and carries out permanent surveillance of foreign nationals about whom it receives information on their possible involvement in illegal activities in Colombia, with a view to preventing criminal acts.

The Department has succeeded in streamlining the analysis, processing and dissemination of intelligence on terrorist organizations, which has made it possible to establish real links to national and international criminal organizations. Those activities are supplemented by the Department's provision of training for its staff, dealing with background information on terrorist groups and activities, manifestations of terrorism, and other subjects relating to national and international terrorism.

65. The Ministry of Transport, in coordination with the Army and the National Police, has established the Centre for Strategic Highway Information and will implement the Meteor Plan, which operates with a network of intelligence vehicles, an armoured military unit and a motorized infantry company in order to monitor and ensure the safety of roads and highways.

Resolution 1373

Paragraph 2 (b)

The Security Council ...

2. *Decides also* that all States shall:

(b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information;

Guidelines of the Counter-Terrorism Committee

What other steps are being taken to prevent the commission of terrorist acts and, in particular, what early warning mechanisms exist to allow exchange of information with other States?

General measures

66. The Government of Colombia, in the document entitled "The Road to Peace and the Strategy against Terrorism" (see the annex to this report), which was submitted to the Congress of the Republic on 27 November 2001, provides for a series of measures to prevent and punish terrorist acts, which include the following:

Strategy One: Limiting terrorist groups' opportunities to take action:

- Termination of the property rights of terrorist groups or of those who support them;
- Restriction of bank secrecy and freezing of accounts;
- Protection of municipal and departmental finances;
- Strengthening of bodies responsible for coordinating measures to combat armed persons acting outside the law;
- Strengthening of the internal early warning system;
- Strengthening of programmes for the protection of vulnerable persons;
- Treatment of and compensation for victims of terrorism.

Strategy Two: Strengthening the State's coercive capacity to combat terrorism:

- Strengthening of specialized task forces;
- Strengthening of the rural police and municipal police stations;
- Strengthening of technical and human intelligence;
- Strengthening of international cooperation (In this section, Colombia reiterates its international commitment in efforts to combat terrorism, within the framework of various treaties, and also its commitment to exchange information, which may be understood as an explicit commitment to create international early warning systems).

Strategy Three: Strengthening the State's punitive capacity with respect to terrorism:

- Specialized prosecutors and judges for cases of terrorism;
- Priority assignment of legal aid officers or court-appointed counsels for the defence;
- Strengthening of the witness protection programme;
- Programmes to promote the surrender of weapons and the prosecution of members of groups engaged in terrorist activities;
- Strengthening of the prison system and establishment of a special regime for persons who are being tried or who have been sentenced for terrorism.

New measures to combat terrorism:

- Exclusion of extenuating circumstances in cases of kidnapping, extortion and terrorism;
- Establishment of new criminal offences;
- System of juvenile criminal liability;
- Special protection for the Congress of the Republic and its members;
- Encouragement of voluntary economic support for law enforcement personnel;
- Increasing of the minimum penalty for the illegal bearing of arms;
- Monitoring of information on terrorism in the mass media;
- Establishment of an elite group to combat bioterrorism;
- Encouragement of civil society to cooperate;
- Rewards for information about assets;
- Adoption of new international instruments.

Early warning mechanisms for the exchange of information with other States

67. At the national level, the system of prevention or early warning is based on the exchange of information, which is carried out on a daily basis by the agencies and bodies that are part of the Colombian intelligence system.

Early warning is used to monitor the execution of terrorist acts in order to enable the State and society to adopt preventive and protective measures. Efforts are therefore made to assess the general trends in the conflict in order to establish different degrees of risk for regions and municipalities. In this regard, and as part of the National Information System, work is based in the National Strategy Room, in which all information relating to armed conflict, violence, human rights and public safety is consolidated and centralized. At the departmental and municipal level, and within the same framework, there are the strategic police information centres of the National Police, where the detailed and decentralized registry of such activities in the respective department or municipality is carried out.

In addition, a State intelligence system based on the aforementioned instruments will be established to detect the imminence of terrorist acts with a view to preventing them and protecting the community.

Strengthening of specialized task forces

68. Colombia has the Group of Special Urban Counter-Terrorism Forces, which are composed of the three branches of the armed forces and are under the authority of the General Command of Military Forces and operate at the national level under its direction. There are also special task forces to deal with terrorism in the National Army, the Navy and Air Force, which operate under the orders of each of the forces in accordance with their competence and which are specific to the respective branch of the military.

69. The special task forces of the National Police are also active at the national level and operate under the authority of the Directorate-General of the National Police. The Administrative Department of Security has the Public Safety and Human Rights Group, which operates under the authority of the Coordinating Agency of the Judicial Police. The purpose of the Group is to deal with such offences as kidnappings, threats made to prominent persons, and arms trafficking. The Department also serves as headquarters for the Inter-Agency Group for Analysis of Terrorist Activities and the Crimes against Public Safety Unit of the Operational Directorate-General of the Administrative Department of Security. Legislators, through Decree No. 218 of 15 February 2000, which modifies the Department's structure, established this unit to investigate crimes of terrorism, conspiracy to commit an offence, and public danger.

Activities in the area of migration

70. In addition to the information mechanisms formally established through Interpol channels, the migration service of the Administrative Department of Security verifies the Database on Migratory Affairs, the possible presence in or transit through Colombian territory of members of recognized terrorist organizations, as in the case of members of the Spanish ETA, the Japanese Red Army or Middle Eastern fundamentalists. Those measures have the objective of providing such information to national police or judicial officials or to other countries, and attempting, through them, to keep such persons and their activities under surveillance.

Moreover, national and international investigators and investigative bodies can access privileged information on migration contained in the databases of the Colombian immigration service, relating to foreigners who are being monitored and investigated for various crimes (including terrorism), with respect to their entry into, residence, location and activities in, and/or departure from Colombian territory.

Financial Intelligence Units

71. Finally, the signing of conventions and exchange of information among the various financial intelligence units has made it possible to become familiar with some of the techniques that can be used by terrorist groups to finance their activities, as well as to track such money and confiscate it.

Other measures

72. As has already been mentioned, the Interpol Subdirectorate of the Administrative Department of Security provides a permanent link with the 179 members of that international organization, which makes it possible to carry out the necessary measures to strengthen the mechanisms to combat international terrorist organizations. Moreover, at the seventieth General Assembly of Interpol, which was held from 24 to 28 September 2001, new measures were adopted to combat terrorism, and the delegation of Colombia participated actively in that process.

73. There is also a permanent exchange of information among the Directorate of Intelligence of the National Police, the Navy, the Air Force and the National Army in order to cooperate in identifying foreign nationals in Colombian territory who are suspected of engaging in illegal acts. This facilitates the provision to such organizations of international records and personal information that can lead to their apprehension.

The Directorate of Intelligence of the National Police cooperates with 43 countries and 142 liaison officers, among which there is an ongoing exchange of non-confidential information for the purpose of combating terrorism and international crime in general. Within the context of such cooperation, joint investigations are conducted between the Directorate of Intelligence of the National Police and international agencies, particularly agencies in the United States, the United Kingdom and Spain.

At the level of the National Police, there is the Police Intelligence Board, which pools the efforts of the six operational directorates with a view to preventing criminal acts of great impact, such as terrorism, and promoting the flow of information from the Directorate of Intelligence of the National Police to the various units in real time.

Resolution 1373

Paragraph 2 (c)

The Security Council ...

2. *Decides also* that all States shall:

(c) Deny safe haven to those who finance, plan, support or commit terrorist acts, or provide safe havens;

Guidelines of the Counter-Terrorism Committee

What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this subparagraph? It would be helpful if States supplied examples of any relevant action taken.

General framework

74. The principal legislative source relating to measures to monitor foreigners in Colombia is contained in Decree No. 2107 of 8 October 2001, "promulgating regulations on the issuance of visas, monitoring and regularization of foreigners and promulgating other regulations relating to immigration".

It is important to note that the issuance of visas in Colombia reflects Colombia's migration policy, which seeks to prevent the entry of foreigners who, for security reasons, pose a threat to the State. Pursuant to this principle, grounds are established for the non-admission or expulsion of foreigners involved in certain acts, including:

- Trafficking in or having engaged in trafficking in narcotics, hallucinogenic drugs or any other similar substance;
- Having pending cases for offences punishable by two (2) or more years of deprivation of liberty, and/or engaging in acts abroad that could jeopardize State security or endanger the public peace;
- Having been extradited from the country, except when acquitted of the alleged offences;
- Having a record in the specialized archives of the International Police;
- Participating, directly or indirectly, in traffic in persons or in human organs;
- Entering the country with false documents or without the legally required documents;

- Having been involved in acts which, in the opinion of the migration authority, qualify the foreigner as posing a threat to national security and the public peace.

75. For reasons of security and public order, it is necessary to obtain permission from the authorities to enter certain areas of Colombian territory.

Judicial records must also be presented in order to obtain certain types of visa. In cases where it is not possible to obtain such records directly, the records are obtained from Interpol files.

All means of international transport that arrive in, or depart from, Colombian territory, are subjected to control by the migration authorities with a view to inspecting the demandable documents of the crew and the passengers that they transport.

Likewise, hotels, boarding houses, residences, apartment hotels or, in general, any place that provides accommodation keep a register of foreigners, which includes the full name of the foreigner, nationality, identity document, place of origin and destination.

Foreigners who reside in Colombian territory for more than six (6) months must register with the Administrative Department of Security.

System for issuing visas

76. The system for issuing visas in Colombia has successfully ensured that both consular officials and officials of the Visa Division of the Ministry of Foreign Affairs have the necessary level of coordination for this delicate task.

The Visa Division constantly receives information from the consulates of Colombia and the Administrative Department of Security relating to lost or forged passports, theft of tickets and other irregular acts that often occur in the area of migration.

This information is immediately communicated to the competent Colombian authorities and Colombian consulates, when the circumstances so require.

The measure of expulsion

77. In accordance with article 143 of Decree No. 2107 of 2001, the Director of the Administrative Department of Security, or his representatives, may order, through a substantiated resolution, the expulsion from Colombian territory of a foreign national involved in any of the following grounds for expulsion:

- Taking part in or carrying out acts which imperil the existence and security of the State and which disturb the public order;
- Having engaged in acts which, in the opinion of the migration authority, qualify the foreigner as a threat to security or the public order, or to the public peace;
- Involvement in illicit trade or trafficking in drugs, pimping and, in general, displaying antisocial behaviour;
- Illicit trafficking in weapons or equipment intended exclusively for use by the armed forces;
- Participating, directly or indirectly, in illicit traffic in persons or in human organs;
- Having been sentenced for common offences in foreign territory;

- Being the subject of an arrest warrant issued by a foreign authority and communicated by Interpol.

In addition to being a possible accessory penalty, expulsion is used when a foreigner who is a permanent resident in Colombian territory has been involved in any of the aforementioned acts.

A foreigner who is being expelled may return to his or her country only with a visa authorized by the Ministry of Foreign Affairs, after a period of no less than five years has elapsed. A foreigner involved in a deportation or expulsion procedure may be detained by way of precaution or subjected to surveillance by the immigration authorities.

78. In addition, and bearing in mind that the measure of expulsion works against criminal acts that seriously imperil national security, the existence of the State and the rule of law, the Administrative Department of Security has proposed that the relevant bodies provide migration authorities with powerful legal instruments that enable them to take effective action when such circumstances arise. Specifically, consideration is currently being given to the possibility of ensuring that expulsion measures that have been adopted are not subject to appeal through government channels. This would involve the addition of a new paragraph to article 143 of the migration regulations. The adoption of such a mechanism would expedite the migration procedure for the departure from the country of persons involved in these types of offences, and their subsequent surrender to the requesting authorities.

A specific example of the application of such measures is the detention, investigation of the background and deportation to Ecuador in October 1999, in cooperation with the Ecuadorian, Egyptian and United States authorities, of the Egyptian national Mohamed Ebid Abdel Aal Ebid, who was requested by the judicial authorities of his country of origin and accused of terrorism. This procedure finally enabled his transfer to Egypt.

Airport controls

79. The National Police has established airport controls with a view to contributing to migration controls and the identification of possible international criminals who are in Colombian territory. When such persons are identified, the National Police take the necessary measures in cooperation with such entities as Interpol in order to apply such instruments as deportation.

In addition, article 508 of the Code of Criminal Procedure contains the legal definition of "extradition", which specifies situations in which that procedure may be offered or granted, subject to compliance with the requirements established by the Constitution and the law.

Other controls

80. Resolution No. 1399 of 11 October 2001, issued by the Ministry of the Interior, establishes measures for the entry and residence of foreigners in the détente zone: "When, for reasons of security or public order, the Ministry of the Interior and the Administrative Department of Security so decide, the foreigner shall obtain permission from the latter entity for entry into, transit through or residence in specific zones of the territory of the Republic". Once the status of the foreigner making the request has been verified by the Subdirectorate of Migratory Affairs at the national and international levels, a request for clearance is made to the High Commissioner for Peace in order to issue the permit, which is granted in writing.

Resolution 1373

Paragraph 2 (d)

The Security Council ...

2. *Decides also* that all States shall:

(d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens;

Guidelines of the Counter-Terrorism Committee

What legislation or procedures exist to prevent terrorists acting from your territory against other States or citizens? It would be helpful if States supplied examples of any relevant action taken.

81. Law enforcement officers throughout the national territory work to prevent the commission of terrorist acts. They pursue, confront and arrest organizations and individuals involved in terrorist activities, complying fully with the policy of preventing Colombia from being transformed into a country where terrorist acts are planned and executed.

The following are the specific activities conducted by the National Police for the purpose of preventing terrorist acts:

- The Anti-Kidnapping Directorate provides training and instruction to similar groups in other countries; in addition, it carries out, together with officials and individuals of other States who reside in or are passing through Colombia, measures to prevent kidnapping and extortion;

- The Directorate of Special Services offers protection to foreign nationals vulnerable to kidnapping or with high risk levels;

- The Directorate of Intelligence conducts periodic security checks of diplomatic headquarters and diplomats' residences;

- The National Police act in coordination with the police forces of neighbouring countries in order to share information and prevent acts of terrorism in border areas;

- Pursuant to the Government's policy of recruiting an additional 10,000 law enforcement officers over the next four years, the National Police are taking measures to establish new stations in public order zones, which include some border areas.

Finally, it should be mentioned that, since June 1997 and on the initiative of the Colombian police authorities, the Andean Intelligence Community was established with a view to organizing concerted action against drug trafficking and related crimes, such as terrorism, in the subregion.

Resolution 1373

Paragraph 2 (e)

The Security Council ...

1. *Decides also* that all States shall:

(e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts;

Guidelines of the Counter-Terrorism Committee

What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

82. With regard to paragraph 2 (e), it should be pointed out that, since there is no uniformity in international standards, doctrine or judicial practice with respect to the definition of terrorism, the new Colombian Penal Code (Act No. 599 of 2000) contains a description of the conduct of terrorism as an open criminal offence, in such a way that it can include all types of criminal behaviour that cause anxiety in the population or a segment of it.

The penalties established in the Penal Code are considered appropriate for such serious punishable conduct, which jeopardize the legal right to public safety. The wording of these provisions is as follows:

"**Article 343. Terrorism**. Any person who provokes or maintains the population, or a segment of the population, in a state of anxiety or terror through acts that endanger the lives, physical integrity or the freedom of the persons or buildings or means of communication, transport, processing or conveyance of fluids or motive power, making use of means capable of causing destruction, shall be liable to a term of imprisonment of between ten (10) and fifteen (15) years and a fine of between one thousand (1,000) and ten thousand times the minimum statutory monthly wage, without prejudice to the penalty to which he or she is liable for the other offences committed in connection with such conduct.

"If the state of anxiety or terror is caused by a telephone call, a magnetic tape, a video, a cassette or an anonymous letter, the punishment shall be from between two (2) and five (5) years and a fine of between one hundred (100) and five hundred (500) times the minimum statutory monthly wage."

"**Article 344. Aggravating circumstances**. The penalties indicated in the first paragraph of the preceding article shall be a term of imprisonment of between twelve (12) and twenty (20) years and a fine of between five thousand (5,000) and thirty thousand (30,000) times the minimum statutory monthly wage when:

1. A minor under eighteen (18) years of age is forced to participate in the commission of the offence;

2. Police premises, State security units or diplomatic or consular posts are attacked or taken;

3. The act was committed in order to hinder or alter the normal conduct of democratic contests;

4. The perpetrator or participant is a law enforcement agent or a member of a State security body;

5. When the act affects an internationally protected person other than those indicated in section II of this Book, or diplomatic agents, in accordance with the international treaties and conventions ratified by Colombia, or when buildings of friendly countries are affected or when international relations are disrupted."

83. Among the statutory offences against persons and property protected under international humanitarian law, article 144 of the Penal Code defines acts of terrorism as follows:

"**Article 144. Acts of terrorism**. Any person who, on the occasion of or in the course of, an armed conflict, engages in, or orders the commission of, indiscriminate or excessive attacks or makes the civilian population a target of attacks, reprisals or acts or threats of violence with the principal objective of terrorizing the civilian population, shall be liable, by that act alone, to a term of imprisonment of between fifteen (15) and twenty-five (25) years, a fine of between two thousand (2,000) and forty thousand (40,000) times the minimum statutory monthly wage, and loss of rights and public functions for a period of between fifteen (15) and twenty (20) years."

As a way of ensuring that persons involved in acts of terrorism are prosecuted, article 449 of the Penal Code, provides for severe penalties—imprisonment from five to eight years—for a public servant responsible for the surveillance, custody or transport of a detainee or convict, who enables or facilitates the escape of the detainee or convict. The second paragraph of article 449 increases the penalty by up to one third when the person is deprived of liberty for more serious offences, including terrorism.

84. In accordance with the provisions of article 357 of the Code of Criminal Procedure (Act No. 600 of 2000), the custodial measure of prevention is applied "*1. When the offence entails the penalty of imprisonment of at least, or exceeding, four (4) years*", a provision which, in cases of terrorism, makes it possible to deprive those involved of their liberty. The purpose of that measure is to ensure that the accused appears for trial and the penalty of deprivation of liberty is executed, or to prevent him from escaping, continuing his criminal activity or impeding the collection of evidence.

85. It should be mentioned that, pursuant to Act No. 504 of 1999, the investigation and prosecution of offences, such as terrorism, that cause great social alarm, is carried out by the specialized justice system.

Article 356 of the Code of Criminal Procedure provides that the time limits established for provisional release, in paragraphs 4 and 5, will be doubled when cases are heard by the specialized justice system. This is an important measure, since it enables officials to have a more suitable time-limit for conducting judicial proceedings—bearing in mind the difficulty encountered in such cases, which generally deal with accused persons who belong to powerful criminal organizations—as well as in the submission of evidence.

86. In addition, as has already been mentioned, the National Government has submitted to the Congress of the Republic the draft act "establishing measures to eliminate the crimes of kidnapping, terrorism and extortion, and promulgating other measures", an initiative that has already been approved by the Congress of the Republic and now only requires presidential approval in order to become an act of the Republic. This proposal contains severe measures for suppressing such appalling criminal behaviour, including the prohibition against granting persons being tried for such crimes administrative benefits, criminal subrogations, amnesty or pardon.

87. Likewise, on the initiative of the executive branch, the Congress of the Republic adopted Act No. 684, "establishing regulations governing the organization and operation of national security and defence and promulgating other measures", which gives the authorities a series of important instruments for combating criminal and terrorist organizations. The provision contained in the first transitional article provides that the National Government shall adopt a comprehensive strategy for combating terrorism, inform the Second Committees of the Senate and House of the measures adopted and submit any draft laws that may be required for its implementation. The Government fulfilled this obligation in November 2001. As indicated above, the document containing the Strategy is annexed to this report.

Pursuant to this legislation, the Government recently submitted to the aforementioned committees a number of provisions, which are currently under consideration.

88. It is useful to bear in mind the diverse provisions of Decree No. 663 of 1993, referred to in paragraph 45 of this report.

Resolution 1373

Paragraph 2 (f)

The Security Council ...

2. *Decides also* that all States shall:

(f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings;

Guidelines of the Counter-Terrorism Committee

What legislation, procedures and mechanisms are in place for ensuring that asylum seekers have not been involved in terrorist activity before granting refugee status? Please supply examples of any relevant cases.

89. Reciprocal cooperation is aimed at supporting intelligence activities and judicial proceedings conducted in other countries in connection with terrorism.

Criminal legislation in force provides for international cooperation mechanisms, particularly Act No. 600 of 2000, which promulgated the Code of Criminal Procedure. The Code, in articles 500 and following, provides for the possibility of collecting evidence and information or any other kind of judicial assistance with foreign authorities or through legally approved channels. These provisions enable judicial officers to travel in order to conduct judicial proceedings, gather evidence and engage in all other activities aimed at prosecuting the offence.

90. In order to supplement these provisions, Colombia has concluded a wide range of bilateral agreements on mutual legal assistance in criminal matters, as well as conventions on specific related topics, such as police cooperation. The Congress of the Republic is currently considering the adoption of the Inter-American Convention on Mutual Assistance in Criminal Matters and its Optional Protocol, which are important regional instruments of the Inter-American System, by which many of these activities are "multilateralized".

91. With reference to the Office of the Prosecutor-General, the Office of International Affairs channels all matters relating to assistance provided to or by other States, exchange of evidence and similar activities, through letters or rogatory commissions and the extradition process. The problems that have been encountered in practice relate to the delay of certain countries in replying to requests made by the Colombian authorities.

Since the establishment of the Office of the Prosecutor-General in 1992, international cooperation has increased considerably in keeping with its institutional mission to provide effective criminal justice at the national level and to facilitate the administration of justice at the transnational level. Results show that international cooperation in legal matters and international technical cooperation, as well as active participation in inter-agency committees, reflect the increasing importance and scope that matters relating to legal assistance have acquired in the work carried out by the Colombian Office of the Prosecutor-General.

The ongoing contacts with judicial authorities of different countries, and among them and bodies and Governments interested in cooperating in the fight against crime, has been indispensable for the collection of information and exchange of evidence, which are essential for the criminal investigations being carried out in Colombia.

92. For example, the Office of the Prosecutor-General has developed mechanisms that facilitate mutual judicial assistance among countries, which helps to bring foreign authorities together with their Colombian counterparts in dealing with judicial matters, participating actively under the guidance of the competent Colombian prosecutor in taking measures in national territory.

Pursuant to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, signed in Vienna in 1988, Colombia has strengthened its cooperation with other countries, consolidating ties between the Office of the Prosecutor-General which, in accordance with that instrument, serves as the Colombian Central Authority, and legal attachés posted in Colombia.

In this regard, attention is drawn to the work carried out with legal attachés from such countries as Belgium, France, Germany, Italy, the Netherlands, Spain, Switzerland and the United Kingdom in Europe, and Canada, Mexico and the United States of America in the western hemisphere.

Such cooperation has made it possible to carry out multilateral operations against organized crime, leading to the prosecution of persons, the dismantling of criminal businesses and the strengthening of international judicial cooperation in the areas of mutual legal assistance and extradition.

The Directorate of International Affairs of the Prosecutor's Office carries out the tasks that have been referred to it, taking measures to expedite and process requests for assistance submitted through the diplomatic channel or directly from the central authorities provided for in the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and in other international instruments. The strengthening, diversification and qualification of mutual legal assistance are one of the main areas of success achieved by the Prosecutor's Office of Colombia since its inception.

93. In this regard, special mention should be made of the close ties between the central authorities of the United States of America and of Colombia in the area of judicial cooperation, which has facilitated an ongoing, frank and free-flowing dialogue that has helped to strengthen mutual judicial cooperation. Within the framework of such activities, the Bilateral Working Group was established with a view to reviewing and updating mutual assistance. The Group periodically brings together officials of the United States Department of Justice and of the Directorate of International Affairs of the Office of the Prosecutor-General of Colombia.

94. Similarly, judicial cooperation with the countries of the Southern Cone demonstrates how exchange of information and experience and academic and pedagogical meetings have contributed to the improvement, and enhanced the quality, of judicial cooperation.

95. The Andean Parliament and the Embassy of France recently took the initiative to promote closer ties among the prosecutor's offices of the States members of the Andean Community of Nations in order to carry out comparative studies of criminal regulations in force. The active participation of the Office of the Prosecutor-General of Colombia in this project has enabled Colombia to gain an in-depth understanding of the judicial cooperation mechanisms of those countries, which is of great importance, particularly if developments in the criminal justice systems in such countries as Bolivia, Chile and Paraguay are taken into account.

96. International judicial cooperation between July 1992 and December 2001, that is, since the establishment of the Office of the Prosecutor-General of Colombia, has demonstrated the Colombian authorities' ability to respond to and deal with requests for judicial assistance from their counterparts, which reflects the firm commitment of institutions and the diligence of the Colombian prosecutors appointed to deal with such requests. The substantial

increase in the ability of the Office of the Prosecutor-General to respond to requests for international judicial assistance can be considered as another of the main achievements of that body.

Although quantitative indicators demonstrate that the ability of foreign authorities to respond promptly is by no means satisfactory, the quality of the assistance received has been an important means of acquiring evidence for investigations, particularly in the area of illicit traffic in narcotics and related offences. In this regard, it is essential to continue to promote cooperation with the competent judicial authorities of other States in order to achieve true symmetry in mutual assistance.

97. In that connection, it is important to point out the relevance, in practical terms, of the presence in Colombia of legal attachés from different States. The activities of such attachés facilitate the processing of requests for judicial assistance, since smooth communication is established between the central authorities and the attachés.

With regard to this study it is important to stress, on the one hand, the need to strengthen the central authority as the main channel for transmitting requests and, on the other, that the Office of the Prosecutor-General promotes the appointment of legal attachés, in accordance with the provisions of various international agreements, in countries that are strategic for international judicial assistance.

98. Assistance in the area of extradition is another form of judicial assistance, which falls within the competence of the Office of the Prosecutor-General, for dealing with foreign Governments' requests for extradition.

Legislative Act No. 01 of 17 December 1997, which re-establishes in Colombia the extradition of nationals by birth, has been a determining factor in increasing the administrative work performed by the Directorate of International Affairs, a task delegated to it by the Prosecutor-General.

99. The Office of the Prosecutor-General is also part of the Inter-Agency Committee for the Control of Money-Laundering, which was established by Decree No. 754 of 1996, and of the Committee to Combat the Financing of Subversive Activities, the objective of which is to dismantle the economic structure of illegal armed groups.

100. The Office of the Prosecutor-General, in an institutional effort carried out by the National Unit for the Termination of Property Rights and against Money Laundering, has frozen the assets of various illegal armed groups, pursuant to investigations that have relied on the efficient cooperation of the entities that are part of the Committee to Combat the Financing of Subversive Activities.

101. Finally, it is important to draw attention to the work of the Directorate of International Affairs in the area of international technical cooperation, which has been aimed at diversifying assistance and cooperation relations with various Governments, international organizations and cooperation agencies. This has made it possible to train officials in various basic areas in order to enable them to carry out their functions, and enabled the Colombian Prosecutor's Office to provide training to counterpart authorities in different Latin American countries, such as Guatemala, the Dominican Republic, Ecuador and Peru.

102. Within the framework of the Andean Intelligence Community, the National Police of Colombia, through the Directorate of Intelligence, has been sharing with police forces in the region its knowledge and experience regarding the organization, methods of operation and other aspects of Colombian terrorist groups.

103. In order to comply with the law, the Interpol Subdirectorate of the Administrative Department of Security exchanges information on an ongoing basis, both with the competent authorities of countries members of Interpol and with liaison officials of offices such as the Bureau of Alcohol, Tobacco and Firearms, the United States Drug Enforcement Administration and the Federal Bureau of Investigation (FBI); the various embassies accredited in Colombia; State security agencies; and the Ministry of Justice, the Ministry of Defence and the Ministry of Foreign Affairs.

Thus, information is provided to the other State law enforcement agencies, supporting the intelligence work and judicial proceedings necessary at the national and international levels to identify, disband and arrest those who participate in the execution, planning and financing of terrorist acts.

Moreover, monitoring activities are coordinated with the Subdirectorate of Migration Affairs of the Administrative Department of Security in order to verify information about foreigners who have entered Colombian territory, with a view to establishing the residential status of such persons in Colombia, or obtaining data that might be available in another country and which may make it possible to establish the real activities of such persons.

Resolution 1373

Paragraph 2 (g)

The Security Council ...

2. *Decides also* that all States shall:

(g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;

Guidelines of the Counter-Terrorism Committee

How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery, etc.?

104. With respect to paragraph 2 (g), it is worth reiterating what was said in the reply to paragraph 2 (c) of Security Council resolution 1373 (2001) concerning the issuance by the Colombian authorities of visas to foreigners (see paras. 65 to 69).

The Administrative Department of Security, through the Subdirectorate of Migration and Documentation, controls seaports and airports and has specially trained personnel to identify documents, which enables them to establish the authenticity of such documents or whether they have been stolen, altered or forged. The specific controls that the Administrative Department of Security has been exercising in this area include:

(a) Systematization of migration control at authorized ports where, through an information network, data on migration are recorded and transmitted to the central authorities. This system is supported by the database containing information on warrants of arrest and measures to prevent persons from leaving the country, requests from Interpol and reports of lost or stolen passports at the national and international levels. This database is also supported by information concerning recognized members of international terrorist organizations;

(b) Inspection of documents at the principal ports of migration control, which is carried out by expert documentologists and graphologists with a view to detecting forged documents;

(c) Control of passengers by trained personnel, who establish whether or not they are violating Act No. 30 of 1986 (against drug trafficking) or are holding forged documents;

(d) Non-admission or rejection, upon their arrival in the country, of foreign nationals, when it is established that they are liable to any of the grounds for non-admission described in migration legislation. Over the past three years, a total of 1,228 persons have been denied entry into Colombia for:

- Trafficking or having engaged in trafficking in narcotics, hallucinogenic drugs or any other similar substance;
- Having cases pending for offences punishable for two (2) or more years of deprivation of liberty, and/or engaging in acts abroad that could jeopardize State security or endanger the public peace;
- Having a record in the specialized archives of the International Police;
- Attempting to enter the country with forged documents or without the legally required documentation;
- Having engaged in conduct which, in the opinion of the migration authority, qualifies the foreigner as posing a threat to national security or the public peace;
- Having left Colombian territory without passing through migration controls;

(e) Imposition of sanctions against migrants for intentional violations of migration regulations. Over the past three years, Colombia has imposed more than 15,000 penalties;

(f) In addition to the migration controls at ports equipped for that purpose, there is also control of legal persons (commercial enterprises, airlines, hotels, colleges, universities, religious communities, etc.) that include foreign personnel in their activities; if violations of migration regulations are detected, such entities are also subject to penalties;

(g) Periodic review of the migration status, documents and activities in Colombian territory of foreign nationals, verification which in certain cases can lead to the imposition of some of the penalties stipulated in migration regulations (fines, deportation or expulsion).

105. The Administrative Department of Security, through its Interpol Subdirectorate, shares information with other law enforcement agencies, facilitating their communication channels in order to expedite investigations in other countries concerning, inter alia, the identity of foreigners, their personal history, the possible existence of records on such persons, and the legality of their documents. As has already been indicated, the Subdirectorate of Migration Affairs of the Administrative Department of Security relies on Interpol for verification of information on foreigners in Colombian territory, and Interpol contacts the Colombian authorities in order to obtain information on foreigners and their status in the country, as well as the migratory movements of nationals and foreigners. The Subdirectorate of Migration Affairs also has a database on stolen documents, which will be shared with Interpol pursuant to one of the measures adopted by the Secretary-General of that organization. Efforts will also be made to provide this service to other national databases.

The Directorate-General of Intelligence and units of the Administrative Department of Security that perform the functions of the Judicial Police make it possible, through their work, to obtain information about, and take action against, networks of document forgers, for which purpose they train detectives to identify the identity papers and travel documents; they coordinate and verify with the entities that issue such papers and documents in order to establish their authenticity, which occurs in the case of identity papers, driving licences, passports and other documents. It also relies on the monitoring carried out by the National Police throughout Colombian territory.

106. Although migration control is the responsibility of the Administrative Department of Security, the National Police support this effort at border areas, seaports and airports, through training, by experts in documentology, fingerprinting and identification of persons, of migration officials, notaries and registration officials and airport control authorities, among others.

At borders, there is access to databases of the Single National Archive for verifying the authenticity of information reported by migrants.

Finally, it should be pointed out that, as specific legislative measures, section nine of the Colombian Penal Code, entitled "Fraud offences", defines such conduct as the forging of an official document, the provision of false information in an official document, the acquisition of a forged official document, the forging of a private document, the use of a forged document, the destruction, removal or concealment of an official or private document, falsification of facts and falsification of identity.

If the Committee considers it useful, Colombia can submit a document on new security measures used in the issuance of Colombian passports.

IV. Paragraph 3 of the resolution

Resolution 1373

Paragraph 3 (a)

The Security Council ...

3. *Calls upon* all States to:

(a) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups;

Guidelines of the Counter-Terrorism Committee

What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this subparagraph?

107. In the area of operations, the Office of the Prosecutor-General takes, with its counterparts in other countries, measures to exchange technology and experience, coordinate monitored or controlled deliveries or undercover agents, coordinate judicial cooperation or any other measures for such purposes.

The National Police, through the liaison officials of the various agencies and embassies, shares information in this area on a daily basis; the information gathered and processed by the Police is placed at the disposal of the competent authorities of other countries.

The Administrative Department of Security has established the SIFDAS database, which contains all the information received by the Department; such information is then stored in its permanent archives. Thus, when another official of the Department or another institution requires specific information, he can determine whether there has already been a previous request, and additional information on a specific search can be provided. This programme seeks to optimize the possibility of incorporating technology in systematized intercommunication and to place them at the service of strategic investigation, which makes possible the management of data at the interregional and, possibly, inter-agency level. The information contained in the nearly 15,000 files that constitute the archives of the Interpol Subdirectorate have already been included in the database, and the information has been refined and updated. This speeds up and facilitates access to information. This mechanism has made it possible to improve the Department's ability to combat terrorism.

The database of the General Secretariat of Interpol, known as the Interpol Criminal Information System (ICIS), which may be consulted by other agencies and units of the Administrative Department of Security through the Interpol Subdirectorate in Bogotá, makes it possible to expedite investigations of persons or enterprises that may be linked to illegal activities. When the database is consulted, all existing data on such persons or enterprises are verified in the Interpol General Secretariat and the result is sent to the Interpol office in Bogotá, providing details about criminal links and indicating whether photographs, fingerprints or other data exist, which may be supplied if the requesting country so determines. There are some exceptions to the provision of detailed information: the country that supplies information to the General Secretariat may request permission from the General Secretariat to disseminate such information, indicating that there must be direct contacts between offices. This protects the information and ensures a high degree of confidentiality without constituting an obstacle to the exchange of data.

The Administrative Department of Security also verifies and exchanges information with liaison officers of other countries accredited in Colombia, who facilitate the acquisition of information for very urgent cases and who also identify the needs of the institution and provide training and logistical support in various areas.

108. In addition, the following training activities, which permit the exchange of information, should be pointed out:

- On 6 and 7 September 2001, an international meeting of police intelligence was held in the Directorate of Police Intelligence of Colombia, during which joint measures to combat international crime were drawn up and the foundations were laid for establishing an international community of police intelligence;

- On 30 October 2001, a seminar on terrorism was held in the facilities of the Directorate of Police Intelligence of Colombia, at which highly interesting information was shared with the representatives from 23 countries who attended the event. The processes of cooperation and exchange of information with different agencies and organizations were also strengthened;

- With regard to the competence of the Administrative Department of Security, training lectures have been given not only to the Department's staff but also to the staff of other agencies in order to familiarize them with the functions of the Interpol Subdirectorate, in the various areas of combating crime, such as the international tracking of firearms, ammunition and explosives or the use of circulars in the international search for persons sought for extradition or whose whereabouts are not known.

Resolution 1373

Paragraph 3 (b)

The Security Council ...

3. *Calls upon* all States to:

(b) Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts;

Guidelines of the Counter-Terrorism Committee

What steps have been taken to exchange information and cooperate in the areas indicated in this subparagraph?

109. At the domestic level, the exchange of information in this area is particularly intense among members of the National Police, the National Army, the Administrative Department of National Security and the Technical Investigation Unit of the Prosecutor's Office.

With regard to cooperation in the judicial field, the relevant information or cooperation is provided in accordance with the guidelines set out in multilateral or bilateral agreements to which Colombia is a party, and domestic legislation, as appropriate, and as has been explained above.

Interpol disseminates information on an ongoing basis concerning persons who have records or are known to have participated in terrorist acts.

The Interpol Subdirectorate of the Administrative Department of Security is governed by institutional regulations (Decree No. 218 of 2000) and the statutes of that organization. On that basis, and within the framework of the laws of different countries, broader assistance is provided to criminal police authorities, establishing and developing all institutions that can contribute to the prevention and suppression of common law offences.

Resolution 1373

Paragraph 3 (c)

The Security Council ...

3. *Calls upon* all States to:

(c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts;

Guidelines of the Counter-Terrorism Committee

What steps have been taken to cooperate in the areas indicated in this subparagraph?

110. Colombia's concerns about and commitment to measures to combat terrorism are reflected by the fact that it is a party to a number of international conventions on terrorism and to many bilateral treaties on judicial cooperation in criminal matters.

With regard to international agreements that deal specifically with terrorism, Colombia is a party to the 1963 Convention on Offences and Certain Other Acts Committed on Board Aircraft, the 1970 Convention for the Suppression of the Unlawful Seizure of Aircraft, the 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation and the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents. In order to prevent and suppress terrorist acts and adopt measures against persons who commit such acts, there are the measures contained in the 1971 Convention to Prevent and Punish Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion that are of International Significance, an inter-American regional instrument that was ratified by Colombia in 1976.

111. Although Colombia has not yet signed any bilateral agreement on the suppression of terrorism, it is a party to bilateral instruments of a more executive nature, which make it possible to take concerted action against terrorism. In recent years, Colombia has established, together with a number of Latin American countries, such sui generis mechanisms as the binational border commissions (COMBIFRON), rounds of talks, meetings of high military commands and police, bilateral intelligence conferences and high-level mechanisms on security matters. Such mechanisms are adequate forums for exchanging experience in fighting terrorism and for establishing permanent procedures to unify efforts to combat it.

Colombia is also prepared to consider any initiatives put forward in the international forums in which it participates actively, such as the Organization of American States (Inter-American Committee on Terrorism), the Rio Group or the Andean Community of Nations.

Resolution 1373

Paragraph 3 (d)

The Security Council ...

3. *Calls upon* all States to:

(d) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999;

Guidelines of the Counter-Terrorism Committee

What are your Government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this subparagraph?

112. The Government of Colombia has decided to submit, in the near future, a number of conventions relating to terrorism to the Congress of the Republic for consideration. These conventions are the 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, and the 1991 Convention on the Marking of Plastic Explosives for the Purpose of Identification.

At the time that this report was being written, the Ministry of Foreign Affairs was finalizing the preparation of the relevant draft laws that will be submitted to the Congress of the Republic at its first session of 2002, next March.

On 30 October 2001, the Colombian Government signed, in the Secreatariat of the United Nations, the 1999 International Convention for the Suppression of the Financing of Terrorism, and is taking the necessary steps to submit to the Congress of the Republic, also in March 2002.

It should be noted that the requisite constitutional formalities relating to other important agreements in this area, including the 1980 Convention on the Physical Protection of Nuclear Material, the 1997 Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials, and the 1992 Inter-American Convention on Mutual Assistance in Criminal Matters and its Optional Protocol, are currently being completed.

The Government of Colombia is currently considering the possibility of withdrawing the reservations that it made when it acceded to the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents. The reservations relate to the extradition procedure and the applicable Colombian legislation.

Finally, it should be mentioned that, on 18 October 2001, the Government of Colombia submitted to the Congress of the Republic a draft act on approval of the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

Resolution 1373

Paragraph 3 (e)

The Security Council ...

3. *Calls upon* all States to:

(e) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001);

Guidelines of the Counter-Terrorism Committee

Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this subparagraph.

113. With regard to the provisions of the international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001), the measures taken by the Government of Colombia and other committed entities have already been mentioned in previous paragraphs of this report.

Resolution 1373

Paragraph 3 (f)

The Security Council ...

3. *Calls upon* all States to:

(f) Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts;

Guidelines of the Counter-Terrorism Committee

What legislation, procedures and mechanisms are in place for ensuring that asylum seekers have not been involved in terrorist activity before granting refugee status? Please supply examples of any relevant cases.

114. Decree No. 2371 of 1996 authorizes the Ministry of Foreign Affairs to qualify as a resident refugee or asylum-seeker any foreigner who requests such status, in accordance with the existing treaties and conventions on the subject that have been duly ratified by Colombia. In compliance with these functions, there is close cooperation between the Ministry of Foreign Affairs and other entities, such as the National Police and Interpol, in the verification of background information and of the causes and reasons that gave rise to the request for asylum or refugee status.

In accordance with paragraph 3 (f) and (g) of Security Council resolution 1373 (2001), we find that, although the Convention relating to the Status of Refugees, signed in Geneva in 1951, does not refer expressly to terrorism, it states, in article 1 (F), that the Convention shall not apply *"to any person with respect to whom there are serious*

reasons for considering that ... (c) He has been guilty of acts contrary to the purposes and principles of the United Nations".

That Convention, as well as the Protocol relating to the Status of Refugees of 31 January 1967, were incorporated into Colombian legislation by Act No. 35 of 1961 and Act No. 65 of 1979, respectively.

115. In order to guarantee the appropriate application of those instruments, Decree No. 1598 of 1995 established the Statute on the Determination of Refugee Status, a regulation which, in addition to defining the procedures and mechanisms for considering cases, created the Advisory Committee on the Determination of Refugee Status, which is chaired by the Ministry of Foreign Affairs in the person of the Vice-Minister for Multilateral Affairs. The principal function of this Committee is to examine individual applications for refugee status, in which different bodies of the Ministry participate and express their opinions, considering asylum per se, the legal aspects, the human rights perspective and the political situation in the country of origin of the person applying for refugee status.

The Ministry of Foreign Affairs of Colombia has appropriate mechanisms for conducting a careful study of each case, thereby guaranteeing consideration of the personal history of each applicant. Thus, when examining future applications for refugee status, the Ministry will take due account of paragraph 3 of Security Council resolution 1373 (2001) and, in particular, will take all available measures to ensure that "*the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts*".

116. In broad outline, Decree No. 1598 of 1995 provides for the following procedure:

(a) Submission of the application for asylum within 30 days following the applicant's entry into the country;

(b) Interview with the applicant within 15 working days following receipt of the application. This interview constitutes an essential mechanism for examining the application, since the Advisory Committee can compare the documents and personal history information submitted by the applicant with his version of the facts. The Committee, meeting in plenary session or at least with half of its members present, interviews the applicant about different matters of importance to the consideration of the application;

(c) Once the interview has been held, the Visa Division transmits the applicant's personal data to the Administrative Department of Security, which in turn consults with Interpol;

(d) If the interview gives rise to any doubt, the Advisory Committee can consult with the Office of the United Nations High Commissioner for Refugees, or request information from the authorities of the applicant's country of origin through the appropriate Colombian diplomatic mission;

(e) Fifteen days after the interview, and once the documents relating to the case have been examined, the Advisory Committee meets in order to take a decision on the case. The case is discussed in detail, and each member of the Advisory Committee expresses his point of view. When a consensus has been reached, a recommendation is drafted for the Minister of Foreign Affairs, who is the competent official for granting or denying refugee status. If the application is denied, the Committee calls for new external consultations or schedules another interview with the applicant.

The Administrative Department of Security is looking forward to the measures that will be promulgated on this matter in accordance with the agreement reached by the countries members of Interpol at the seventieth session of that organization's General Assembly, to verify information on foreign nationals seeking asylum, provided that such measures do not infringe on the fundamental rights of asylum-seekers, and that they are in conformity with the laws of each member State.

Resolution 1373

Paragraph 3 (g)

The Security Council ...

3. *Calls upon* all States to:

(g) Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists;

Guidelines of the Counter-Terrorism Committee

What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation from being recognized as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.

117. With regard to preventing terrorists from abusing refugee status, the procedure described in the reply to the preceding question is also relevant. Colombian legislation has adopted the definition of the term "refugee" as contained in the 1951 Geneva Convention and, as has already been mentioned, approved the provisions of that Convention relating to its non-applicability.

It should be borne in mind that, although there is a multilateral instrument that defines refugee status, which is observed by Colombia in all its aspects, the domestic law of each State enables it to approve or deny any applications for asylum that may be submitted to it. The same domestic law is the principal mechanism for preventing abuse of refugee status by any person whose entry is not considered desirable.

118. Finally, it should be noted that the Ministry of Foreign Affairs is currently promoting a revision of Decree No. 1598 of 1995 with a view to improving those mechanisms and defining more precisely the requirements and procedures for granting refugee status.

119. With regard to the institution of extradition as a means of international cooperation, the Colombian Constitution establishes the conditions for granting extradition.

Thus, article 35 of the Political Constitution establishes:

> "*Extradition may be requested, granted or offered in accordance with public treaties or, failing that, with the law.*
>
> "*Moreover, extradition of native-born Colombians shall be granted for offences committed abroad, which are considered as such in Colombian criminal legislation.*
>
> "*Extradition shall not be granted for political crimes.*
>
> "*Extradition shall not be granted when the offences were committed prior to the promulgation of this regulation.*"

In accordance with jurisprudential criteria, the limitations on extradition, in the light of the regulation under consideration, are as follows:

"In conclusion, in accordance with the aforementioned comments, the following constitutional limitations may be established with respect to the explanation of the definition of extradition:

"(a) The extradition of native-born Colombians is admissible if the offences in question were committed abroad (See conclusion 7 of this court ruling, the comments made by the Constitutional Court in its ruling C-1189/00 on the scope of articles 13 and 15 of the Penal Code, which deal with the principle of territoriality as a general norm, and acceptable hypotheses of extraterritoriality);

"(b) Extradition shall not be granted for political crimes;

"(c) Extradition shall also not be granted when the offences were committed prior to the promulgation of Legislative Act No. 01 of 1997; and

"(d) Extradition shall not be granted if the person requested by the authorities of another State has been tried or is serving a sentence for the same criminal acts referred to in the request."[2] [The italics are ours.]

120. The Administrative Department of Security has provided the following example concerning cooperation between national and international authorities, which, although it does not relate directly to terrorism, serves to illustrate the control mechanisms that exist to prevent the abuse of refugee status:

In 2001, the Prosecutor's Office requested the tracking and arrest, for the purpose of extradition, of a Colombian national who was wanted for murder. This national travelled to a country in the region and there applied for refugee status, which was granted immediately. In order to remove that status, it was necessary to demonstrate that the offences for which the person was being requested by Colombia had occurred long before the person arrived in that country. In this way, and after a number of formalities, the extradition of the person in question was granted.

This same situation would apply, if permitted by law, to cases relating to terrorism, in accordance with the domestic laws and existing agreements between the States.

V. Other information

Topics mentioned in paragraph 4 of the resolution

In view of the close connection between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms trafficking and illegal movement of nuclear, chemical, biological and other potentially deadly materials, what initiatives can be coordinated on national, subregional, regional and international levels to strengthen a global response to this serious challenge and threat to international security?

121. In the document entitled "The Road to Peace and the Strategy against Terrorism", the Government of Colombia establishes that Colombia is a party to bilateral instruments that enable it to promote joint cooperation to combat terrorism, such as binational commissions, meetings of high military commands and police, and bilateral intelligence conferences. These bodies are becoming appropriate forums for establishing permanent mechanisms that will make it possible to take concerted efforts to combat terrorism.

[2] Constitutional Court, Ruling T-1736/2000 of 12 December 2000. M. P. Carlos Gaviria Diaz.

Similarly, and as has already been mentioned, the document establishes that Colombia is prepared to consider initiatives relating to the suppression of terrorism that are put forward in such international forums as the United Nations, the Organization of American States, the Rio Group, the Andean Community of Nations, and so on.

Bearing in mind that the main risks and threats to regional, hemispheric and international security are currently represented by transnational crime (terrorism, drug trafficking, illegal arms trafficking, money-laundering, etc.), a transnational or multinational response is necessary to neutralize such crime. States must take a cooperative approach and join efforts to combat this type of crime, since positive results will be achieved only if the problem is tackled simultaneously in the various affected countries and at all stages of development of a crime. This type of concerted and joint action requires close cooperation in the exchange of information and coordination of activities, which are effective measures for promoting confidence among States and reducing the potential negative impact that such criminal phenomena can have.

In this regard, Governments should endeavour to implement legal and institutional reforms that provide them with flexible and efficient means to combat terrorism. This strategy seeks to incorporate and strengthen the legal and intelligence means that improve the State's ability to combat terrorism, in combination with effective international cooperation.

When the financing of terrorism is attacked, the logistical systems of terrorist organizations are weakened and their ability to act is significantly restricted. It is therefore essential to unite and step up efforts to detect and neutralize the resources used to finance terrorist activities.

In order to detect and stop the flow of money for financing terrorist organizations, States should consider adopting joint and coordinated measures that enable them to take effective action in this area. In this regard, the Information and Financial Analysis Unit, a specialized agency of the Colombian Government, has prepared a draft strategy consisting of several points, which emphasizes the need to centre States' action around specific "action fronts", such as the broadening of the legal framework; coordination among intelligence bodies; establishment or strengthening of financial intelligence units; exchange of information and coordination; and, finally, training and technical assistance. Some of these proposals have been formally submitted to the Inter-American Committee on Terrorism and are being considered by that body of the Inter-American System.

Efforts have been made to establish clear judicial and policy mechanisms that enable States to keep up with the development of transnational crime, in order to suppress criminal activities.
Crime has crossed borders. In particular, it is increasingly difficult to combat drug trafficking, especially since that activity leads to the corruption of various segments of society. It is therefore necessary to establish a mechanism that enables judges or prosecutors of countries affected by acts of terrorism or violence to take immediate action and cooperate in the collection of evidence.

122. Other measures that can be implemented, once they have been incorporated into States' legal systems, are:

- Strengthening and involvement of all entities and civil society in the culture of prevention;
- Provision of additional support and granting greater responsibility to agencies involved in preventing and responding to emergencies and disasters;
- Strict controls on the manufacture of, and trade in, weapons, ammunition and explosives;
- Strengthening of migratory and border controls;
- Streamlining of procedures for termination of ownership of assets that are the proceeds of terrorism or which are intended for terrorist purposes;
- Improvement of technology to enable the State to control and manage the radioelectric spectrum;

- Strengthening of cooperation through the establishment of new mechanisms that make possible reciprocal access to databases on terrorists and terrorist organizations;

- Increased assistance in training and provision of the technical means to strengthen intelligence services.

123. In addition, it would also be advisable to:

- Regulate efforts to unify criteria for amending current laws with a view to preventing and punishing any criminal manifestation that is directly or indirectly related to domestic or translation terrorism;

- Gradually increase regional cooperation and assistance in order to counteract the rise in drug trafficking and the various criminal activities that are financed by drug trafficking;

- Continue to carry out all the necessary coordination among national authorities in order to exchange information and take joint measures to neutralize the activities of criminal organizations, and increase the training of personnel in the various areas of crime;

- Increase cooperation with counterpart entities in different law enforcement bodies;

- At the regional and international levels, support the treaties and agreements on measures to control and suppress criminal activities, while respecting the legal systems of individual States. Improve the exchange of information with and through Interpol;

- In order to improve assistance, make a commitment to share information on the participation of national bodies in the signing of agreements and the conduct of bilateral and multilateral events, in order to ensure an adequate response not only to terrorist acts but also to any other action that can jeopardize State security;

- Develop institutional programmes to strengthen the prevention of illicit acts of this kind, attempting to revise existing laws and regulations with a view to discouraging the civilian population from participating in the commission, financing or planning of terrorist acts;

- Establish the principle of shared responsibility in the case of terrorism, in the same way as has been recognized in the case of the world drug problem;

- Create a single national database on firearms, ammunition and explosives and their components, which includes all information on seized or stolen weapons, traffickers, routes, modi operandi, etc. This database would complement the existing Interpol database;

- Hold meetings to identify the international cooperation mechanisms that are supported by various State institutions in order to prevent the creation of bodies that unnecessarily duplicate efforts, and in which agreements can be reached on access to their respective databases;

- In this area, and as has been observed over time, money-laundering is a transnational crime that has enabled criminal organizations to make use of all aspects of modern technology to carry out their activities. It is therefore necessary to provide all institutions responsible for investigating such crimes with more modern technology in order to ensure that investigations are proactive and not reactive. This will provide institutions with the same technological means as the persons and organizations that engage in criminal activities.

General comments regarding the implementation of resolution 1373 (2001)

124. It would be useful to integrate the investigation efforts carried out by the World Bank and the Financial Action Task Force with the activities of the Security Council. In particular, such efforts should include the provisions of Council resolution 1373 (2001), which should be available to all Member States for consultation. The strengthening of international cooperation is essential in order to facilitate communication among the various State bodies involved in combating international terrorism.

In order to consolidate ideas and opinions concerning terrorism, the international community should adopt a universal definition of this punishable conduct.

Cooperation should be promoted among countries, particularly those that possess more technology, as opposed to countries whose technological means are meagre or simply non-existent, since this would improve the levels and quality of information. This would also be a positive contribution to the training of officials employed in investigation units and the police force.

It is essential to have the means of intensifying and facilitating the exchange of operational information on arms trafficking, altered travel documents, explosives or dangerous objects and the modi operandi and communications technologies used by terrorists, in order to implement a policy not only to combat terrorism but also to prevent it and reduce the risk of its expansion.

One basic measure in the area of anti-terrorist policy should be the adoption of strategies to optimize immigration controls in all countries, particularly border controls. In addition, immigration officials should be trained to identify travellers who are members of terrorist organizations in order to prevent their entry into the country and to inform other States in a timely manner concerning the movements of such persons.

As has been mentioned, security organizations must have sufficient staff and equipment to carry out their tasks, and the information collected should be centralized so that efforts are not scattered and there is adequate coordination among State bodies in order to achieve more efficient results.

Bilateral and multilateral conventions and agreements undoubtedly constitute the most appropriate framework for strengthening and encouraging cooperation in suppressing terrorism at various levels. In other words, the promotion of international cooperation through the signing of treaties and agreements with other States against terrorist organizations, and the adoption of treaties and agreements that are currently being negotiated is a priority for those States that are committed to combating terrorism.

Finally, any implementation of an anti-terrorist strategy should be accompanied by a process of raising awareness and providing training in that area. To that end, it is important to create adequate space and facilities for providing instruction to law enforcement officers and members of security bodies.

Requests for assistance

In what specific areas is technical assistance or additional guidance required in aspects covered by resolution 1373 (2001)?

125. With regard to technical assistance, support in the area of training and equipment for human and technical intelligence is essential.

In general, various Colombian State bodies could benefit from support in the area of training and equipment for technical and human intelligence.

For example, the Security Department of the Presidency of the Republic has stated that it requires, as a matter of priority, support in the area of training for the purpose of preventing and responding to bioterrorism.

The Office of the Prosecutor-General of the Nation has drawn attention to the need for technical assistance to train investigators, prosecutors, communications technologists and accountants in order to track jointly at the international level the bank accounts of major criminal organizations.

Finally, it should be noted that the Superintendence of Banks is interested in receiving assistance in training its staff in the financial practices of terrorists in order to establish adequate and timely controls through the updating of the existing regulations, surveillance processes and alert signals that it provides to entities under its supervision and control.

Agregado

República de Colombia

El Camino hacia la Paz y la Estrategia contra el Terrorismo

27 de Noviembre de 2001

Contenido

PRESENTACION **5**

I. UNA POLÍTICA INTEGRAL DE SEGURIDAD **7**

1. El Reto a los Actores Armados 7

a. La Solución Política Negociada 7
b. El Fortalecimiento de las Fuerzas Militares 8
c. La Iniciativa contra el Narcotráfico 9

2. La Seguridad Ciudadana 11

a. Estrategia Nacional para la Convivencia y Seguridad Ciudadana 11
b. La Lucha contra el Secuestro y la Extorsión 12
c. Plan Nacional de Seguridad Vial 12

3. La Modernización de la Acción de la Justicia 13

a. Nueva Política Carcelaria 13
b. Programa Nacional de Casas de Justicia 14
c. Modernización de la Investigación Criminal 14

II. ESTRATEGIAS CONTRA EL TERRORISMO **15**

1. Primera Estrategia: Reducir el margen de acción de los grupos terroristas 15

a. Extinción de Dominio de Bienes de Grupos Terroristas o de quienes los Apoyen 15
b. Restricción del Secreto Bancario y Congelamiento de Cuentas 16
c. Protección de las Finanzas Municipales y Departamentales 17
d. Fortalecimiento de las Instancias de Coordinación de la Lucha contra los Actores Armados al Margen de la Ley 18
e. Fortalecimiento del Sistema de Alertas Tempranas 18
f. Fortalecimiento de los Programas de Protección a Personas Vulnerables 19
g. Atención e Indemnización de Víctimas del Terrorismo 20

2. Segunda Estrategia:
Fortalecimiento de la Capacidad Coercitiva del Estado
para Combatir el Terrorismo 21

a. Fortalecimiento de Cuerpos Operativos Especializados 21
b. Fortalecimiento de la Policía Rural y de los Puestos de Policía Municipales 21
c. Fortalecimiento de la Inteligencia Técnica y Humana 22
d. Fortalecimiento de la Cooperación Internacional 23
e. Plan Movilización 23

3. Tercera Estrategia:
Robustecer la Capacidad Punitiva del Estado contra el Terrorismo 24

a. Fiscales y Jueces Especializados para Casos de Terrorismo 24
b. Asignación Prioritaria de Defensores Públicos o de Oficio 24
c. Fortalecer el Programa de Protección de Testigos 24
d. Programas de Promoción de la Dejación de Armas
y de Sometimiento a la Justicia de Miembros de Grupos
que Realicen Actividades Terroristas 24
e. Fortalecimiento del Sistema Carcelario y Creación
de un Régimen Especial para los Procesados y Condenados por Terrorismo 25

III. NUEVAS ACCIONES CONTRA EL TERRORISMO 26

a. Exclusión de Beneficios para el Secuestro, la Extorsión y el Terrorismo 26
b. Creación de Nuevos Tipos Penales 26
c. Sistema de Responsabilidad Penal Juvenil 26
d. Protección Especial al Congreso de la República 27
e. Promoción al Apoyo Económico Voluntario a la Fuerza Pública 27
f. Incremento de la Pena Mínima al Porte Ilegal de Armas 27
g. Control de las Informaciones sobre Terrorismo en los Medios de Comunicación 27
h. Creación de un Cuerpo Elite Antibioterrorismo 28
i. Promoción de la Cooperación Ciudadana 28
j. Recompensas por Denuncias de Bienes 28
k. Adopción de Nuevos Instrumentos Internacionales 28

Presentación

El Gobierno Nacional dentro de su iniciativa *Cambio para Construir la Paz*, expresa que el objetivo central del sector de defensa y seguridad del país es el de contribuir a la consolidación de un entorno de seguridad y confianza ciudadana como base para una paz justa y duradera, que sea el cimiento del desarrollo social y económico.

En efecto, este objetivo es el compromiso más importante que el Gobierno Nacional asume frente a la ciudadanía y, en aras de su consecución, desarrolla una Política Integral de Seguridad diseñada para enfrentar la compleja situación que vive el país y orientada a mejorar las condiciones de convivencia, tranquilidad ciudadana y estabilidad institucional.

De esta forma, tres estrategias fundamentales hacen parte de esta Política Integral de Seguridad:

La primera de ellas es el Reto a los Actores Armados planteado por medio de: la solución política negociada con las organizaciones al margen de la ley a las cuales el Gobierno reconoce carácter político, el fortalecimiento de las fuerzas militares, y la iniciativa contra el narcotráfico.

En segundo lugar, se encuentra el Fortalecimiento de la Seguridad Ciudadana a través de la implementación de una estrategia nacional para la convivencia y seguridad ciudadana, de la modernización de la lucha contra el secuestro y de la aplicación de un plan nacional de seguridad vial.

Y por último, pero no por ello menos importante, está la Modernización de la Acción de la Justicia a partir de un robustecimiento ostensible del sistema penitenciario gracias a una nueva política carcelaria, al acercamiento de la justicia al ciudadano mediante la ampliación en todo el territorio nacional del programa de casas de justicia, y a la modernización de la investigación criminal.

En cuanto hace al fenómeno del terrorismo, el Gobierno Nacional centra su atención en el acto constitutivo del mismo, busca fórmulas de prevención de la actuación terrorista y procura el castigo de quien lo comete.

En materia jurídica, el Código Penal, en su artículo 343 penaliza al que provoque o mantenga en estado de zozobra o terror a la población o a un sector de ella, mediante actos que pongan en peligro la vida, la integridad física o la libertad de las personas o las edificaciones o medios de comunicación, transporte, procesamiento o conducción de fluidos o fuerzas motrices, valiéndose de medios capaces de causar estragos. De igual forma, en su artículo 144 caracteriza los actos terroristas como aquellos que, con ocasión y en desarrollo del conflicto armado, impliquen ataques indiscriminados o excesivos o que hagan objeto a la población de ataques, represalias, actos o amenazas de violencia cuya finalidad principal sea aterrorizarla.

Dentro de este marco, el Gobierno lidera reformas normativas en diversos temas relacionados con la búsqueda de un entorno de confianza ciudadana, de la convivencia pacífica y la lucha contra los actores que perturban el orden ciudadano. De forma tal que se procura dotar al Estado y a la sociedad colombiana de instrumentos ágiles y eficientes en la lucha contra el crimen.

Adicionalmente, esta Política Integral de Seguridad se enmarca dentro de los compromisos internacionales contraídos por Colombia en materia de derechos fundamentales, adquiridos en virtud de la ratificación y consiguiente incorporación en el orden interno, de los principales instrumentos internacionales de derechos humanos y de DIH, tanto en el marco de las Naciones Unidas como en el regional interamericano. Colombia honra, en tanto Parte en tales instrumentos, su compromiso de respeto y garantía de los derechos allí consagrados.

Igualmente, impulsa la tesis de la responsabilidad compartida en la lucha contra los actos de terrorismo de alcance global, así como se ha hecho en el tema del problema mundial de las drogas, en especial a través de las medidas adoptadas por el Consejo de Seguridad de las Naciones Unidas, del que Colombia forma parte.

Teniendo en cuenta lo anterior, el Gobierno Nacional, como parte de su Política Integral de Seguridad, presenta al país *El Camino hacia la Paz y la Estrategia contra el Terrorismo* , con el propósito fundamental de adecuar las acciones institucionales y las herramientas normativas del Estado para hacer frente a las diversas modalidades de acción de los violentos.

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En desarrollo del artículo transitorio No. 1 de la Ley 684 del 13 de agosto de 2001, por medio de la cual se expiden normas sobre organización y funcionamiento de la Seguridad y Defensa Nacional y se dictan otras disposiciones, El Camino hacia la Paz y la Estrategia contra el Terrorismo busca integrar y fortalecer las acciones que ya están en marcha y desarrollar nuevas iniciativas que las complementen, así como crear nuevos instrumentos jurídicos y mecanismos institucionales que refuercen la capacidad del Estado para combatir el terrorismo con el apoyo de la ciudadanía y la cooperación de la comunidad internacional.

Así, el presente documento contiene tres capítulos a saber: La Política Integral de Seguridad, en el cual se hace un resumen de los principales componentes que el Gobierno Nacional desarrolla en el contexto de esta política. La Estrategia contra el Terrorismo, en el que se reúnen las herramientas con las que cuenta actualmente el Estado colombiano en la lucha contra el terrorismo y se plantea el fortalecimiento de algunas. Y finalmente, las Nuevas Acciones contra el Terrorismo, en el que el Gobierno Nacional presenta las nuevas iniciativas que se adelantarán en el corto y mediano plazo con el objetivo de robustecer y complementar las medidas expuestas en el capítulo II.

I. Una Política Integral de Seguridad

1. El Reto a los Actores Armados

El Gobierno Nacional establece tres grandes estrategias como reto a los actores armados al margen de la ley, en la búsqueda de la paz y el desarrollo del país. Estos son la Solución Política Negociada con las organizaciones al margen de la ley a las cuales el Gobierno reconoce carácter político, el Fortalecimiento de las Fuerzas Militares y la Iniciativa contra el Narcotráfico.

a. La Solución Política Negociada

La Solución Política Negociada obedece a la necesidad de afrontar 36 años de conflicto desde la perspectiva del diálogo y el acercamiento de posiciones, frente a otras alternativas para confrontarlo. Es ante todo una decisión política que surge de la convicción ética y no de la imposición fáctica, que parte de la premisa según la cual la fuerza de la razón debe imponerse a la razón de la fuerza. 7/7

Se entiende como una política de Estado y como un compromiso de la sociedad en la construcción de la paz. Se trata de la identificación y aplicación de los instrumentos más idóneos para adelantar un proceso de negociación que conduzca al fin del conflicto armado.

Derivado de esta concepción, el Gobierno Nacional reconoce en primera instancia a la organización armada con carácter político como un interlocutor que ofrece validez para lograr negociaciones y acuerdos, de conformidad con la facultad que el legislador le ha conferido en la ley 418 de 1997 – prorrogada por la ley 548 de 1999 – para utilizar las herramientas de paz que conlleven a la posibilidad de lograr la convivencia pacífica entre los colombianos.

Dentro de este entorno: permanencia del conflicto y negociación, el Estado no renuncia al ejercicio del monopolio del uso de la fuerza, a la potestad penal que le es propia, ni a la protección de los derechos de los habitantes del territorio nacional. En otras palabras, no se oponen la negociación y el normal funcionamiento del Estado que exige a las partes en conflicto, el respeto a las reglas mínimas de humanidad.

Se entiende como una negociación política en la medida en que busca abrir espacios de participación a quienes se les ha reconocido dicho carácter, precisamente por su finalidad de acceso al poder.

Ahora bien, ni el Estado ni la sociedad pueden restringir la concepción de paz, o el resultado de la negociación, solamente al logro de la desmovilización. La oportunidad de construir un nuevo orden político, social y económico exige la concientización del papel y la tarea individual que asiste a cada ciudadano como pieza del engranaje social.

Por último, la política de negociación no se entiende como un proceso exclusivo entre un gobierno y una organización armada al margen de la ley con carácter político; por el contrario a él se invitan a participar a diferentes fuerzas políticas y actores sociales, así como a la comunidad internacional que hacen las veces de generadores de consensos y de acompañantes del proceso de negociación. En este sentido, el Gobierno actúa en nombre del Estado y de toda la sociedad, en cumplimiento del mandato ciudadano en la búsqueda de la paz.

b. El Fortalecimiento de las Fuerzas Militares

El Programa de Reestructuración y Modernización de la Fuerza Pública se guía por el propósito de tener más y mejores hombres, más y mejores equipos y herramientas legales adecuadas para fortalecer el cabal cumplimiento de su misión institucional.

Como consecuencia del cumplimiento del objetivo de más y mejores hombres, las Fuerzas Militares llevan un proceso de crecimiento y profesionalización que representa un incremento en pie de fuerza combatiente del 61% y un aumento del 150% en soldados profesionales.

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Igualmente, se encuentra en operación la Fuerza de Despliegue Rápido, que cuenta con cinco mil hombres y que incrementa de manera sustancial la movilidad y capacidad de respuesta de las Fuerzas Militares a las acciones de los violentos. A ella se suma la incorporación de una Brigada Móvil por cada una de las Divisiones Militares del país.

En efecto, para tener una presencia más amplia y una actividad más permanente en la lucha contra el terrorismo en todo el país, el Gobierno, a través del Plan Fortaleza, hace los esfuerzos necesarios para incrementar el pie de fuerza de las Fuerzas Militares durante los próximos tres años en por lo menos diez mil nuevos soldados adicionales cada año. Igualmente en los próximos años se incrementará el pie de fuerza de la Policía Nacional en por lo menos diez mil hombres.

En desarrollo del segundo aspecto del Programa de Reestructuración y Modernización de la Fuerza Pública, consistente en más y mejores equipos, se incrementa la capacidad helicoportada y de apoyo de fuego para las fuerzas en tierra.

Asimismo, los recursos dedicados a incrementar la capacidad operacional se han empleado también en mejorar el armamento convencional. Adicionalmente, se incrementaron los dispositivos de comunicaciones, los sistemas de inteligencia y la capacidad para ejecutar operaciones nocturnas, reuniendo para ello el empleo de nuevas unidades especializadas como la Brigada Contra el Narcotráfico, la Brigada Fluvial, la Fuerza de Despliegue Rápido anteriormente mencionada y la Central de Inteligencia Conjunta.

El tercer gran propósito es dotar a la Fuerza Pública de herramientas legales adecuadas, con la finalidad de que pueda asumir sus responsabilidades en la mejor condición para superar el desafío que enfrenta.

En este sentido, y constituyendo la primera generación de reformas internas, se lleva a cabo la expedición de once decretos que, con fuerza de ley, ofrecen renovados estatutos para normar y alentar las carreras militar y policial. Esta nueva normatividad permite el retiro discrecional de personas que se aparten de los más estrictos requerimientos profesionales; adopta nuevos códigos para proteger la disciplina de ambas ramas; establece la carrera del soldado profesional y extiende a éste los más completos amparos prestacionales y de seguridad social; estructura el sistema de salud de las Fuerzas Militares y de la Policía Nacional y regula los regímenes de capacidad e incapacidad del personal para el servicio. Adicionalmente, se crea el cuerpo de la Justicia Penal Militar y entra en funcionamiento el Nuevo Código Penal Militar.

De igual forma, se sanciona la Ley No. 684 del 13 de agosto de 2001, mejor conocida como Ley de Seguridad y Defensa Nacional, como principio de un conjunto de normas orientadas a acabar la guerra, que parte de la premisa del fortalecimiento de las instituciones legítimas del Estado y de cuya reglamentación hace parte la presente estrategia.

Finalmente, el Gobierno encabeza una iniciativa para presentar al Congreso un proyecto de reforma al servicio militar obligatorio para hacer de éste un deber patriótico igualitario, transparente e integrador de la Nación.

c. La Iniciativa contra el Narcotráfico

El objetivo de la Iniciativa contra el Narcotráfico, contemplado dentro del Plan Colombia, es lograr una reducción sustancial del área cultivada de coca, amapola y marihuana por medio de tres estrategias: la interdicción, la erradicación forzosa y la acción social. Lo que se busca es que la dinámica de erradicación de cultivos supere la capacidad de los narcotraficantes para producir drogas ilícitas, dando así al traste con el negocio del narcotráfico.

En materia de interdicción, en el marco del fortalecimiento de las Fuerzas Militares se crearon una Brigada y tres batallones contra el narcotráfico en el Ejército Nacional, cuya acción se centra en la ampliación de la capacidad de la Fuerza de Tarea Conjunta del Sur que abarca los departamentos de Caquetá y Putumayo, donde se concentra el 50% de los cultivos de coca. De esta forma se está cortando el paso, por vía terrestre, marítima, fluvial y aérea, a todos los elementos involucrados en los procesos de cultivo, producción de base de coca, producción de cocaína y transporte de la misma.

Por otra parte, y como el elemento más importante de la iniciativa contra el narcotráfico, se encuentra la acción social en las distintas regiones afectadas por los cultivos ilícitos, pero especialmente en el sur del país en donde se encuentra gran parte de la problemática. A través de dicha acción se busca la recuperación económica y social con estrategias que mitiguen la crisis económica y favorezcan a los colombianos de menores recursos, al igual que se propende por el fortalecimiento institucional y el desarrollo social para incrementar la legitimidad de las instituciones

estatales y reconstruir el tejido social. En este sentido, se trabaja en materia de atención humanitaria, derechos humanos, y transparencia y convivencia.

De otro lado, continúa la erradicación forzosa por aspersión aérea en las zonas de mayor concentración de cultivos ilícitos del país.

Adicionalmente, la iniciativa contra el narcotráfico promueve el desarrollo alternativo con el fin de dar a los campesinos en las zonas afectadas, opciones económicas diferentes a la de los cultivos ilícitos.

En materia legal, existen tres grandes instrumentos jurídicos para el combate del narcotráfico, los cuales brindan a las autoridades las herramientas normativas necesarias para enfrentar y judicializar este delito:

La Ley 30 de 1986, conocida como Estatuto Nacional de Estupefacientes, genera el marco jurídico para el tratamiento del delito del narcotráfico. Igualmente, los artículos 375 a 385 del Código Penal tipifican como delitos algunos comportamientos relacionados con la producción, tráfico y consumo de estupefacientes que anteriormente se investigaban como conductas contravencionales. Y por último, el Acto Legislativo No. 1 del 16 de diciembre de 1997, por medio del cual se modifica el artículo 35 de la Constitución Política, estipula que la extradición se podrá solicitar, conceder u ofrecer de acuerdo con los tratados públicos y, en su defecto, con la ley. De esta forma, el Estado colombiano cuenta con una herramienta de cooperación con otros gobiernos en la lucha global contra el narcotráfico.

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En este orden de ideas, el Estado colombiano fortalecerá los instrumentos jurídicos y operativos de las instituciones para combatir las organizaciones del narcotráfico y sus actividades conexas, tanto como las acciones de la Fuerza Pública en contra de los narcotraficantes. Se consolidará la integración de redes o centrales de inteligencia e información de los organismos de seguridad del Estado a fin de efectuar una coordinación más efectiva entre las diferentes entidades.

A fin de incrementar su eficacia, el Estado evaluará y revisará la normatividad legal en relación con la extinción de dominio y fortalecerá la legislación que sustenta el accionar de la Unidad Especial de Información y Análisis contra el Lavado de Activos. También se fortalecerán las acciones contra el contrabando, uno de los medios más utilizados para realizar lavados de dineros provenientes del narcotráfico, y se realizará un programa agresivo de decomiso de activos, congelamiento de cuentas bancarias en Colombia y en el exterior.

De esta forma, se desarrolla una lucha orientada a desarticular las redes de producción, distribución, comercialización, lavado de activos, tráfico de precursores y otros insumos, tráfico de armas y tráfico de narcóticos.

2. La Seguridad Ciudadana

El Gobierno Nacional, como parte de la Política Integral de Seguridad, desarrolla tres estrategias dirigidas no solamente a reaccionar frente al crimen, sino también a generar una conciencia preventiva en la ciudadanía y a mejorar las herramientas institucionales y tecnológicas del Estado.

a. Estrategia Nacional para la Convivencia y Seguridad Ciudadana

La Estrategia Nacional para la Convivencia y Seguridad Ciudadana se compone de una serie de herramientas y propuestas basadas en la conciliación, la prevención y la reacción, y cuyo propósito es promover el avance en la gestión en materia de seguridad y convivencia por parte de la autoridad local.

La primera de ellas es el Sistema Nacional de Información que busca modernizar al Estado, tanto desde el nivel nacional como el local, en materia de sistematización y análisis de los datos referentes al conflicto armado, la violencia y la inseguridad.

Por otra parte, se promueve la modernización de la vigilancia pública por medio de la instalación de Circuitos Cerrados de Televisión –CCTV- en los principales centros urbanos del país. Esta herramienta ha demostrado gran eficacia en la lucha contra el terrorismo a nivel mundial al convertirse no solamente en un elemento de vigilancia, sino también de investigación y posterior judicialización de actos criminales. 11/11

En materia de armas de fuego se aplica una política de restricción al porte de armas en las cabeceras de 59 municipios con altos índices de crimen violento por arma de fuego. Igualmente, con el fin de disminuir la impunidad en este tipo de delitos y de combatir las armas ilegales, se crea el Sistema Nacional de Registro Criminal Balístico que integra a las cuatro instituciones de policía judicial en torno a la investigación sobre armas, balas y casquillos involucrados en diferentes crímenes, pero especialmente en homicidios.

Igualmente, en materia de delitos específicos como el hurto de vehículos, el asalto a entidades financieras y la piratería terrestre se adelantan iniciativas con el fin de mejorar la capacidad tecnológica y normativa de las autoridades para combatirlos.

En vista de la generalización de la modalidad del uso de vehículos robados en la realización de actos terroristas, el Gobierno Nacional inicia un proceso de modernización en el control de vehículos, con el propósito de contar con una mejor información del parque automotor a nivel nacional y tener una mayor capacidad de reacción frente al hurto de los mismos.

De otro lado, en apoyo a la labor institucional de la Policía Nacional en aras del acercamiento a la comunidad, se impulsa la creación de Frentes Locales de Seguridad y la implementación de la Policía Comunitaria en los principales centros urbanos del país.

Por último, se promueve la creación de Planes Locales de Seguridad que respondan eficientemente a la problemática de seguridad urbana de cada municipio del país. En el mismo orden de ideas

se apoya la creación de comités regionales, departamentales, distritales y municipales de seguridad con el fin de desarrollar planes de acción conjunta para enfrentar la situación específica de orden público e inseguridad de cada ente territorial.

b. La Lucha contra el Secuestro y la Extorsión

Privar de la libertad a una persona a cambio de una prerrogativa política o económica es tal vez uno de los crímenes más atroces contra la humanidad. Consciente de la grave problemática que en este sentido golpea al país, el Gobierno Nacional busca fortalecer todo el sistema de lucha contra el secuestro empezando por una reorganización institucional del manejo del tema.

De esta forma, el Fondo para la Defensa de la Libertad Personal –FONDELIBERTAD-, anteriormente dependiente de la Presidencia de la República y posteriormente del Ministerio de Justicia, en el año 2000 pasa a depender orgánicamente del Ministerio de Defensa, por medio del Decreto 1512 del 2000.

Bajo esta nueva organización institucional se trabaja la lucha contra el secuestro y la extorsión a partir de tres perspectivas:

En primer lugar, se fortalece el trabajo preventivo a través de las Oficinas de Seguridad Preventiva –OSP- cuya misión fundamental es ayudar a proteger la libertad individual de todas las personas que se encuentran en el territorio colombiano. Para lograr tal fin, las OSP cuentan con un grupo de expertos para brindar capacitación, asesoría y el apoyo necesario, el cual incluye un servicio gratuito de comunicación por radios, para que la ciudadanía prevenga ser víctima de los delitos de secuestro y extorsión.

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En segundo lugar, se fortalece la inteligencia técnica y humana de los GAULA con capacitación del personal y adquisición de equipos de última tecnología.

Y finalmente, el Gobierno Nacional impulsa una iniciativa legislativa para fortalecer la normatividad vigente contra el secuestro, aumentando las penas mínimas y excluyendo beneficios penales para secuestradores y extorsionistas.

c. Plan Nacional de Seguridad Vial

Con el objetivo de disminuir los índices de delincuencia en la Red Vial Nacional, el Ministerio de Transporte en coordinación con el Ejército, la Policía Nacional y la Policía de Carreteras pone en marcha el Plan Nacional de Seguridad Vial, a través de tres programas.

Se implementa en el Ministerio de Transporte el Centro de Información Estratégica Vial como herramienta de apoyo a las labores de inteligencia y a la capacidad de reacción ante los eventos que ocurran en la Red Vial Nacional.

Se pone en marcha el Plan Meteoro el cual crea un sistema de comunicaciones entre el Ministerio de Transporte, el Ejército y la Policía de Carreteras, una red de vehículos de inteligencia, una

unidad militar blindada y una compañía de infantería motorizada, con el fin de garantizar el control y la seguridad de las vías.

Igualmente, se crea la Oficina Móvil de Control de Vías cuyo objetivo es convertirse en un método expedito para realizar retenes en el punto de la Red Vial en el que sea necesario.

Finalmente, se propone la reglamentación del uso obligatorio de dispositivos de localización (GPS) para el servicio público intermunicipal.

3. La Modernización de la Acción de la Justicia

El Gobierno Nacional, a través del Ministerio de Justicia, desarrolla una serie de labores, programas y acciones encaminadas a cumplir con lo que considera un axioma máximo: Sin Justicia no hay paz.

a. Nueva Política Carcelaria

Consciente de la necesidad de que la premisa de la condena penal sea la dignidad humana, el Ministerio de Justicia inicia todo un proceso de reestructuración a su interior y en el INPEC, cuyos propósitos primordiales son la actualización, modernización y humanización de todos los procedimientos utilizados al interior de los establecimientos encargados de hacer efectivo el cumplimento de la pena.

En este orden de ideas se crea el Fondo de Infraestructura Carcelaria –FIC-, independiente del INPEC, y destinado a diseñar, construir, ampliar y equipar los centros de reclusión.

Igualmente, se adopta un Plan Integral del Sistema Penitenciario y Carcelario, en el cual se hace un diagnóstico de las principales dificultades por las que atraviesa dicho Sistema, proponiendo soluciones a las mismas.

Este diagnóstico demuestra que el principal problema del Sistema es la falta de establecimientos de reclusión así como la obsolescencia de los existentes. De esta forma, se proyecta la construcción de 11 nuevos centros penitenciarios cada uno con una capacidad de 1.600 internos.

Asimismo, la construcción, diseño y estructura arquitectónica de los nuevos establecimientos, permite ejercer un mayor control interno y externo, con lo cual se garantiza que al interior de los mismos imperen la ley y el orden, se conserve la convivencia pacífica y se puedan desarrollar verdaderos programas de resocialización, incidiendo además en la reducción de la sobrepoblación penitenciaria.

Entre las principales características del nuevo sistema se encuentran: el establecimiento de un lugar de visita distinto a la celda de reclusión, un estricto horario de visitas, uso de uniformes por parte de los internos, turnos por patios para acceso a zonas de recreación, celda de sanción por mal comportamiento y lugar de visita especial para abogados.

En resumen, a partir de la nueva política se genera un crecimiento sin precedentes de un 42% de la capacidad del sistema carcelario y penitenciario del país.

b. Programa Nacional de Casas de Justicia

Las Casas de Justicia son centros multiagenciales de información, orientación, referencia y prestación de servicios de resolución de conflictos, donde se aplican y ejecutan mecanismos de justicia formal y no formal, con los que se acerca la justicia al ciudadano, orientándolos sobre sus derechos, previniendo el delito, luchando contra la impunidad y facilitando el acceso a los mecanismos formales y alternos de solución de conflictos.

En promedio, una Casa de Justicia atiende diariamente 150 casos convirtiéndose en un elemento fundamental para la resolución de conflictos comunitarios, especialmente aquellos relacionados con la violencia intrafamiliar.

Al acercar la justicia a la comunidad, dando la posibilidad de resolver los conflictos de una manera pacífica y concertada, el Estado colombiano está eliminando un caldo de cultivo para que muchos jóvenes ingresen a las filas del terrorismo.

c. Modernización de la Investigación Criminal

14
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El atraso tecnológico y la falta de capacitación en las cuatro instituciones con funciones de Policía Judicial (Dirección de Policía Judicial de la Policía Nacional –DIJIN-, Cuerpo Técnico de Investigación de la Fiscalía General de la Nación –CTI-, Departamento Administrativo de Seguridad –DAS- e Instituto Nacional de Medicina Legal) son algunas de las principales causas de la ineficiencia de la justicia.

Consciente de la necesidad de modernizar la investigación criminal en el país, el Gobierno Nacional inscribe dentro del componente de justicia del Plan Colombia, dos proyectos para fortalecer y mejorar la capacidad técnica de la Policía Judicial en Colombia.

El primero de ellos es la creación de una Red de Investigación Forense que integra a las cuatro instituciones de Policía Judicial y hace una inversión importante en equipos en el área de identificación y registro balístico, identificación por ADN e identificación dactilar criminal. De esta forma, las instituciones de policía judicial no solamente cuentan con las últimas herramientas tecnológicas para la investigación criminal sino que son capaces de intercambiar información de una manera rápida y expedita que, en últimas, redunda en la resolución eficaz de casos penales.

El segundo proyecto es la creación de la Escuela Unica de Policía Judicial cuyo objetivo es el de dar un entrenamiento forense básico homogéneo y bajo los mismos criterios a los agentes del DAS, la DIJIN y el CTI. Así, se procura lograr una mayor coordinación y cooperación tanto en el manejo de escenas del crimen como en todo el proceso de investigación forense. En el largo plazo, se pretende que cada institución pueda especializarse en delitos específicos.

II. Estrategias contra el terrorismo

1. Primera Estrategia: Reducir el margen de acción de los grupos terroristas

a. Extinción de Dominio de Bienes de Grupos Terroristas o de quienes los Apoyen

Dentro de las medidas aplicables por el Estado, tendientes a disuadir a aquellas personas u organizaciones que apoyan las acciones terroristas, es innegable la importancia de aplicar una prerrogativa con fundamento en la cual pueda el Estado extinguir el dominio de los bienes adquiridos mediante enriquecimiento ilícito en perjuicio del orden y la seguridad pública, o de aquellos adquiridos para el desarrollo de actividades terroristas.

Supone esta intención la necesidad de adoptar medidas eficaces para la consecución de tal propósito, tendientes a superar la impunidad en todas las modalidades delincuenciales y a materializar dicha intención, fortaleciendo mecanismos e instituciones hoy vigentes y a través de una serie de iniciativas que permitan, como punto de partida, el diseño de un sistema interinstitucional para la recolección de información, investigación y juzgamiento que garantice el decomiso de bienes a quienes hacen parte o apoyan grupos terroristas.

15/15

El artículo 345 del Código Penal penaliza la administración de recursos relacionados con actividades terroristas. Además existen otras disposiciones para cumplir dicha finalidad en el Código de Procedimiento Penal: el artículo 60 sobre embargo y secuestro de bienes, en cuantía suficiente para garantizar el pago de los perjuicios que se hubieren ocasionado con la comisión del delito; el artículo 62 sobre prohibición de enajenar bienes inmuebles sujetos a registro durante el año siguiente a la vinculación del sindicado al proceso penal; el artículo 65 prevé la cancelación de personería jurídica de sociedades u organizaciones dedicadas al desarrollo de actividades delictivas, o cierre de sus locales o establecimientos abiertos al público; el artículo 67 faculta el decomiso de los instrumentos y efectos con los que se haya cometido la conducta punible o provengan de su ejecución; el artículo 68 sobre extinción de dominio, disposición complementada por la ley 333 de 1996 sobre extinción de dominio.

Partiendo de esta intención, se debe fortalecer la investigación y recolección de pruebas de delitos susceptibles de extinción del derecho de dominio por actividades que se consideren asociadas con el terrorismo, surgiendo así la necesidad de buscar la integración de la información e inteligencia recolectadas con otras agencias que estén desarrollando iniciativas regionales e internacionales en ese sentido.

Resulta prioritario entonces ajustar internamente un esquema donde se establezcan claramente etapas, competencias y responsabilidades, así como la necesidad de colaboración armónica entre las entidades que en la actualidad intervienen en estos procesos: Ministerio de Hacienda y Crédito Público a través de dos Unidades Administrativas Especiales adscritas al mismo, la Unidad de Información y Análisis Financiero y la Dirección de Impuestos y Aduanas Nacionales, así como a través de las Superintendencias Bancaria y de Valores; Ministerio de Justicia y del Derecho, Instituto Nacional Penitenciario y Carcelario, Dirección Nacional de Estupefacientes, Superintendencia de Notariado y Registro; Ministerio de Defensa Nacional, Ejército Nacional, Armada Nacional, Fuerza Aérea y Policía Nacional; Procuraduría General de la Nación; Unidad Nacional de Fiscalías para la Extinción del Derecho de Dominio y Contra el Lavado de Activos; Departamento Administrativo de Seguridad (DAS); Instituto Colombiano de Comercio Exterior; Consejo Superior de la Judicatura; Banco de la República; Superintendencia de Sociedades; Autoridades Municipales y Departamentales.

Así, la política en este sentido contempla los siguientes puntos: diseño de una lista de principios fundamentales que permitan identificar personas, bienes y organizaciones involucradas en acciones terroristas, partiendo de unas líneas claras en la definición de las mismas; capacitación al personal especializado de las entidades responsables en los aspectos relacionados con la detección y control de las operaciones relacionadas con actividades terroristas; diseño de un sistema integrado de monitoreo de activos bancarios, operaciones bursátiles, operaciones de comercio internacional, operaciones de cambio de divisas, y actividades empresariales o societarias; creación de áreas especializadas en cada una de las entidades responsables para prevenir, vigilar y controlar las actividades antes señaladas; determinación de los mecanismos jurídicos que permitan una reducción temporal en los procesos, con el fin de hacer más expeditos los procesos de extinción de dominio y así neutralizar el accionar de las organizaciones terroristas; institucionalización de los canales de comunicación para el intercambio de información y pruebas procesales con autoridades nacionales, empresa privada y gremios; vincular a los sectores susceptibles de ser utilizados en el lavado de activos u otras operaciones que permitan fortalecer la actividad terrorista; revisión de los tipos penales asociados con operaciones que permitan fortalecer la actividad terrorista, la tasación de la pena, la agravación de las conductas, aspectos procedimentales y de investigación que permitan establecer los vínculos y aplicar la extinción de dominio.

16
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Este fortalecimiento en los vínculos institucionales, sumado a una política como la enunciada y al endurecimiento de los instrumentos jurídicos hoy vigentes, permitirán a las instituciones del Estado garantizar operativos exitosos en el decomiso de bienes utilizados en el desarrollo de acciones terroristas o utilizados para su financiamiento y su extinción de dominio.

b. Restricción del Secreto Bancario y Congelamiento de Cuentas

El Estado se propone evitar el ocultamiento y la consolidación de las finanzas de los individuos y/o grupos que llevan a cabo acciones terroristas por medio de su infiltración en sectores de la economía formal.

Con este propósito, se promoverán los mecanismos legales para que cuando en el curso de las diligencias judiciales orientadas a perseguir actos terroristas, aún en investigación preliminar,

S/2001/1318

existan indicios de que los bienes, fondos, derechos y otros activos pertenecientes a los individuos involucrados provienen o están destinados a financiar esas actividades, la Fiscalía General de la Nación pueda disponer de inmediato su embargo preventivo. Si se tratare de bienes depositados en entidades financieras se podrá ordenar su inmediata inmovilización.

La Superintendencia Bancaria de acuerdo con el Estatuto Orgánico del Sistema Financiero, artículos 102, 107 y Ley 190 de 1995, es la entidad que lidera la lucha contra el lavado de activos. El ejercicio de estas funciones es una manifestación del poder de autoridad de policía económica administrativa que ostenta en aras de preservar el orden público económico, con potestades que van desde la expedición de instrucciones y autorizaciones, hasta actos que abarcan la toma de posesión de las entidades sometidas a su vigilancia, todo en coordinación con los diferentes órganos del Estado que tienen funciones asociadas a este propósito.

c. Protección de las Finanzas Municipales y Departamentales

Se reforzará la Unidad de Auditoría Especial de Orden Público del Ministerio del Interior, teniendo en cuenta que uno de sus propósitos es impedir que los individuos y/o grupos que realizan acciones terroristas puedan sustraer, para robustecer sus finanzas, parte de los recursos fiscales de los municipios o de los departamentos, por medio de la coacción armada o de amenazas a los funcionarios públicos o a contratistas del Estado. Esta instancia que tiene carácter administrativo, ejecuta acciones preventivas y hace auditorías en las entidades territoriales por solicitud de las comunidades o por informaciones de los organismos de seguridad del Estado, fortalecerá sus mecanismos de coordinación con la Contraloría General de la Nación. 17/17

En caso de que esta Unidad detecte la filtración de recursos públicos hacia los grupos y/o individuos que realicen acciones terroristas, podría recomendar al Ministro del Interior el establecimiento de un bloque de investigación conformado por la Fiscalía General de la Nación, la Contraloría General de la Nación y el Ministerio del Interior en el área para impedir la continuación de ese delito, sin perjuicio de las investigaciones pertinentes sobre responsabilidad o, complicidad o dolo por parte de los funcionarios locales involucrados.

También se promoverán las veedurías ciudadanas sobre el manejo de los recursos públicos, así como la concertación interinstitucional para perfeccionar la metodología de acceso y programación de los recursos públicos, y la integración de los contratistas al proceso de incrementar la transparencia en la asignación y manejo de esos recursos.

De similar manera, se hará más estricto el recaudo y la destinación de los recursos de los Fondos de Seguridad, velando porque a ellos ingresen todos los recursos que ordena la Ley y porque se inviertan en rubros directamente relacionados con la seguridad ciudadana. Los Consejos Municipales y Departamentales de Seguridad participarán activamente en la gestión y destinación de esos recursos.

d. Fortalecimiento de las Instancias de Coordinación de la Lucha contra los Actores Armados al Margen de la Ley

La lucha contra todos los actores armados al margen de la ley, su organización y sus finanzas es prioridad para el Gobierno Nacional, y así se establece en su Política Integral de Seguridad.

Para hacer aún más efectiva la acción del Estado en contra de estos actores, el Gobierno Nacional, mediante el Decreto 324 de 2000, creó el Centro de Coordinación de la Lucha contra los Grupos de Autodefensas Ilegales y demás Grupos al Margen de la Ley. Este decreto complementa la Directiva del Ministerio de Defensa Nacional 026 de 1995, mediante la cual se crea el Comité Interinstitucional de Lucha contra las Finanzas de la Guerrilla.

Estas dos instancias funcionan bajo la dirección del Ministerio de Defensa Nacional y buscan articular la gestión interinstitucional en el establecimiento de políticas y acciones que permitan recopilar la información necesaria para desarticular los mandos, las finanzas y la estructura general de estos grupos.

De esta forma, las instituciones involucradas están en capacidad de adelantar las actividades de inteligencia, investigación y judicialización para combatirlos, especialmente en materia de finanzas.

18
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En ambas instancias se trabaja en el fortalecimiento de una base de datos, construida a partir de la información de inteligencia que aportan los distintos organismos del Estado. Paralelamente se crean grupos de trabajo operativos en diferentes regiones del país, integrados por los comandantes de los respectivos organismos de seguridad y autoridades judiciales en el ámbito regional, quienes, mediante el apoyo de los alcaldes y gobernadores, dispondrán de lo necesario para la correcta aplicación de medidas contra estas organizaciones al margen de la ley.

e. Fortalecimiento del Sistema de Alertas Tempranas

Con las alertas tempranas se pretende monitorear la ejecución de acciones terroristas con el fin de que el Estado y la sociedad generen medidas de prevención y protección. Se busca entonces apreciar las tendencias generales del conflicto para establecer diferentes grados de riesgo por regiones y por municipios. En este sentido, y como parte del Sistema Nacional de Información, se trabajará con base en la Sala de Estrategia Nacional -SEN- en donde se consolida y centraliza toda la información con respecto a conflicto armado, violencia, derechos humanos y seguridad ciudadana. A nivel departamental y municipal, y dentro del mismo marco, se acudirá a los Centros de Información Estratégica Policial -CIEP- de la Policía Nacional, en donde se llevará el registro pormenorizado y descentralizado de esas actividades en el respectivo departamento o municipio.

Adicionalmente, y con base en las anteriores herramientas, se articulará un sistema estatal de inteligencia para detectar la inminencia de acciones terroristas con el fin de impedirlas y de proteger a la comunidad.

Se ampliará el ámbito de aplicación del sistema de alertas tempranas para la prevención de las masacres y el desplazamiento forzado y la inclusión de otras modalidades de acciones terroristas. Para esto se busca fortalecer la coordinación entre los niveles local, regional y nacional con el fin de establecer canales de comunicación que permitan responder de manera oportuna y articulada ante cualquier riesgo. También se pretende fortalecer la integración de las comunidades entre sí y de los ciudadanos con las autoridades, con el objeto de incentivar la colaboración en la prevención de actos terroristas. Estas contribuciones no tendrán carácter vinculante y el sistema de alertas tempranas será complementario de las acciones de inteligencia de los organismos de seguridad del Estado.

El Consejo de Coordinación del Sistema lo componen la Presidencia y la Vicepresidencia de la República, el Ministerio del Interior, el Ministerio de Defensa, la Red de Solidaridad Social y la Defensoría del Pueblo. El sistema tendrá un esquema operacional descentralizado en el que tendrán participación muy activa las Alcaldías y Gobernaciones, los Consejos Municipales y Departamentales de Seguridad, las Personerías municipales, así como las Defensorías del Pueblo a nivel regional y seccional.

f. Fortalecimiento de los Programas de Protección a Personas Vulnerables

El Gobierno Nacional desarrolla varios programas de protección a personas vulnerables. Radicados en el Ministerio del Interior se encuentra el Programa de Protección a Testigos y Personas Amenazadas, creado mediante la Ley 418 de 1997, el Programa de Protección Especial a Dirigentes, Miembros y Sobrevivientes de la Unión Patriótica y del Partido Comunista Colombiano, creado mediante Decreto 978 de 2000 y el Programa de Protección a Periodistas y Comunicadores Sociales, creado mediante Decreto 1592 de 2000. Igualmente está en funcionamiento el Programa de Protección a Víctimas, Testigos, Intervinientes y Funcionarios Judiciales con sede en la Fiscalía General de la Nación.

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Según lo dispuesto en las normas que establecen estos programas, pueden ser beneficiarios del primero los dirigentes o activistas de grupos políticos especialmente de grupos de oposición, dirigentes y activistas de organizaciones sindicales, sociales, cívicas, comunitarias, gremiales, campesinas y de los grupos étnicos, dirigentes y activistas de las organizaciones de derechos humanos, testigos de casos de violaciones a los derechos humanos y al DIH, los dirigentes, miembros sobrevivientes de la U.P. y del Partido Comunista Colombiano y los periodistas y comunicadores sociales, quienes por causas relacionadas con la violencia política o ideológica, o con el conflicto armado interno que padece el país, o que por su participación dentro del mismo, se encuentren en situación de riesgo contra su vida, integridad, seguridad o libertad.

De igual forma, dentro del segundo programa enunciado, los beneficiarios pueden ser las víctimas, testigos, intervinientes y funcionarios judiciales, cuya vida, seguridad, integridad o libertad se encuentre en situación de riesgo en razón de su participación o vinculación a procesos judiciales o de su trabajo como investigadores o jueces.

Estos programas están encaminados hacia la protección y a la prevención de riesgos de esas personas u organizaciones y se desarrollan en coordinación con los organismos de seguridad del

Estado y la Policía Nacional, en donde, previo el análisis del nivel de riesgo y grado de amenaza de la persona u organización, se adoptan medidas de protección de diversos niveles.

Los dos programas se encuentran en una fase de evaluación y diagnóstico, de suerte que se permita en adelante optimizar el manejo de los recursos y buscar las mejores alternativas para su fortalecimiento, avanzando tanto en la fase de prevención como en el seguimiento y evaluación de las medidas adoptadas en desarrollo de los mismos.

g. Atención e Indemnización de Víctimas del Terrorismo

Desde hace varios años la legislación ha establecido mecanismos que permiten la atención de la población que se ve afectada por la ocurrencia de actos terroristas.

Así, en la actualidad la Ley establece una serie de beneficios para estas personas, que incluye la asistencia básica inmediatamente después de ocurrir el acto terrorista y acciones que, hacia el futuro, les permitan a esas familias colombianas buscar alternativas para continuar con sus vidas, previniendo su desplazamiento. Estas acciones cubren las garantías de sustento, educación, salud y vivienda entre otros aspectos, con el apoyo de las entidades del Estado que atendiendo su misión, han sido involucradas en este proceso.

20/20 Sin embargo, la política de atención a las víctimas de atentados terroristas, merece ser evaluada de manera más integral, de suerte que exista información centralizada no sólo sobre las víctimas, sino sobre la atención que realmente reciben éstas y la efectividad de los programas que, a través de las diferentes entidades, se adelantan. De manera que las medidas hoy vigentes puedan ser evaluadas dentro del contexto de una política única en este tema, que adicionalmente permita el control sobre la aplicación de los recursos y la presentación de resultados contundentes en el cumplimiento del deber del Estado frente a este sector de la población.

Así, resulta de vital importancia el fortalecimiento de programas como el de Atención de Emergencia a Víctimas del Terrorismo prestada por la Red de Solidaridad Social o el de Atención a Menores de Edad Víctimas del Terrorismo del ICBF, estableciendo los mecanismos de coordinación y evaluación que permitan centralizar la prestación de ayuda a víctimas del terrorismo en Colombia. Esto particularmente en lo atinente a la oferta institucional que las normas consagran hoy para estas personas, lo cual será evaluado por la Presidencia de la República con miras al desarrollo de un programa específico al interior de la misma o del Ministerio del Interior, o al fortalecimiento y rediseño de uno ya existente.

Otro punto que será objeto de evaluación es el relacionado con el considerable esfuerzo presupuestal que hace el Estado para atender indemnizaciones de las víctimas de atentados terroristas, las cuales surgen como producto de las reclamaciones que estas personas elevan ante la jurisdicción de los contencioso administrativo. Este hecho valida la necesidad de coordinar esfuerzos para que el Estado asuma su responsabilidad a través de acciones complementarias que garanticen la atención a quienes verdaderamente la requieren, optimizando la aplicación de los recursos que, mediante los presupuestos de diferentes instituciones, se destinan para tal fin.

2. Segunda Estrategia: Fortalecimiento de la Capacidad Coercitiva del Estado para Combatir el Terrorismo

a. Fortalecimiento de Cuerpos Operativos Especializados

El Estado colombiano cuenta con la Agrupación de Fuerzas Especiales Antiterrorismo Urbanas, conformadas por miembros de las tres fuerzas militares, que dependen del Comando General de las Fuerzas Militares y operan a nivel nacional bajo su dirección. Igualmente, existen Grupos de Fuerzas Especiales para enfrentar el terrorismo en el Ejército Nacional, en la Armada y en la Fuerza Aérea que operan bajo las órdenes de cada una de las fuerzas según su jurisdicción y son de naturaleza específica de acuerdo con el arma respectiva.

También actúan los Grupos de Operaciones Especiales de la Policía Nacional que operan a nivel nacional bajo las órdenes de la Dirección General de la Policía Nacional.

Igualmente, el Departamento Administrativo de Seguridad DAS cuenta con el Grupo de Seguridad Pública y Derechos Humanos que depende de la Coordinación de la Policía Judicial. Sus esfuerzos se dedican a enfrentar secuestros, amenazas a personalidades, tráfico de armas, entre otros delitos. En este Departamento también tiene su sede el Grupo Interinstitucional de Análisis Terrorista (GIAT) y la Unidad de Delitos contra la Seguridad Pública de la Dirección General Operativa del DAS. El legislador a través del Decreto No. 218 creó esa unidad para investigar delitos de terrorismo, concierto para delinquir y de peligro común.

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El Gobierno Nacional tomará las medidas necesarias para incrementar el pie de fuerza de las Fuerzas Militares y de la Policía Nacional para tener una presencia más amplia y realizar una actividad más permanente a nivel nacional en la lucha contra el terrorismo. Se incrementará la cooperación entre las distintas agencias relacionadas con el problema del terrorismo, sobre todo en aspectos de intercambio de información e inteligencia, y para evitar la duplicación de tareas.

b. Fortalecimiento de la Policía Rural y de los Puestos de Policía Municipales

En respuesta a los reiterados ataques terroristas de que son objeto los puestos de Policía en las zonas rurales del país por parte de los grupos armados al margen de la ley, la Policía Nacional está desarrollando un Plan de Fortalecimiento de la Policía Rural dentro de su Plan Estratégico Institucional.

Como parte de su estrategia rural, la Policía Nacional hará especial énfasis en el fortalecimiento de la especialidad de Carabineros en las estaciones rurales, con la creación de escuadrones móviles que realizarán desplazamientos permanentes por caseríos, veredas y corregimientos, integrando a los campesinos en la construcción de una cultura de seguridad en el área rural del país. También se reforzará el control de los ejes viales identificados como críticos con una Policía de Carreteras dotada con los medios tecnológicos necesarios. Así mismo se ampliará la cobertura de los Gaula en las zonas rurales más afectadas por el delito del secuestro.

Los nuevos puestos de policía que sean reconstruidos en los municipios del país deberán contar en su diseño y construcción con especificaciones tales que les permitan soportar los ataques violentos de los grupos guerrilleros. De igual manera, ante la eventualidad de nuevos ataques, esos municipios deberán contar con la posibilidad de pronto y suficiente apoyo militar, lo cual significa que en la recuperación de la presencia policial en los municipios del país debe prevalecer el criterio de seguridad de zona, mediante la coordinación entre la Policía Nacional y las Fuerzas Militares.

c. Fortalecimiento de la Inteligencia Técnica y Humana

El Estado buscará seguir fortaleciendo y profesionalizando los servicios de inteligencia en sus áreas técnicas y humanas, así como promoverá la cooperación y coordinación entre los diferentes servicios de inteligencia del país, como medio fundamental para prevenir y neutralizar las actividades terroristas en Colombia.

Se continuarán haciendo esfuerzos para incrementar y mejorar la calidad de la información así como su procesamiento y análisis, de tal forma que sea un instrumento cada vez más eficaz en términos tácticos y estratégicos para prevenir las acciones terroristas y para desmantelar sus redes de apoyo. Teniendo en cuenta la creciente importancia de la inteligencia humana en la lucha contra el terrorismo, es necesario hacer mayor énfasis en la infiltración como medio privilegiado para la consecución de información sobre el funcionamiento de las organizaciones armadas que realizan acciones terroristas, sus planes y bases de apoyo.

Los organismos de inteligencia deberán contar con una base de datos unificada que centralice y proporcione información sobre las organizaciones terroristas, los perfiles de sus principales miembros, su infraestructura, métodos planes y capacidades. Sus archivos y sistemas de manejo de información deben ser digitales y tener un acceso seguro y restringido. Para este efecto se deberá establecer una directiva que fije los criterios para el acceso a los archivos de inteligencia, especificando en qué circunstancias puede consultarse o compartir un documento, así como el tiempo que permanece la información en el archivo. Dicha directiva debe estar bajo continua revisión, anual de ser posible.

La información de inteligencia debe estar disponible como evidencia para enjuiciar a los grupos o individuos investigados por la comisión de acciones terroristas y, en todo caso, se garantizará su utilización con los fines de facilitar procesos penales u operaciones militares concretas y legales. Tal y como corresponde actuar a un Estado democrático, el Gobierno Nacional garantizará la posibilidad de denunciar y castigar cualquier abuso de los servicios de inteligencia en cumplimiento de sus funciones. La autoridad competente conocerá estos hechos y tendrá la capacidad de tomar medidas correctivas cuando sea necesario.

Para garantizar la recolección y el uso legal y eficiente de la inteligencia, en cumplimiento de lo dispuesto en la Ley de Defensa y Seguridad Nacional, el Consejo de Seguridad y Defensa Nacional y la Junta de Inteligencia Estratégica deberán promover los mecanismos de cooperación y coordinación entre los diferentes servicios de inteligencia del país. El Ministro de Defensa Nacional, como presidente de la Junta de Inteligencia Estratégica será el encargado de centralizar y

coordinar todo el trabajo de los servicios de inteligencia y de servir como puente entre ellos y el resto del Estado. Así mismo, el Ministro de Defensa Nacional presentará anualmente al Presidente de la República un informe sobre la ejecución de la política de inteligencia, así como los requerimientos para el mejor cumplimiento de sus funciones.

d. Fortalecimiento de la Cooperación Internacional

La preocupación y el compromiso de Colombia en la lucha contra el terrorismo se evidencia en que el Estado es parte en varias convenciones internacionales sobre terrorismo y en acuerdos de cooperación judicial en materia penal.

En materia de tratados internacionales, que se refieren específicamente al tema de terrorismo, Colombia es parte en el Convenio sobre Infracciones Cometidas a bordo de las Aeronaves, el Convenio para la Represión del Apoderamiento Ilícito de Aeronaves, el Convenio para la Represión de Actos Ilícitos contra la Seguridad de la Aviación Civil y el Convenio sobre la Prevención y el Castigo de los Delitos contra las Personas Internacionalmente Protegidas.

De otra parte, aunque Colombia no ha llegado a ningún acuerdo bilateral para la lucha contra el terrorismo, sí cuenta con instrumentos bilaterales que le permiten promover la cooperación para combatirlo de manera conjunta. En efecto, las Comisiones Binacionales o Rondas de Conversaciones como las COMBIFRON, reuniones de Altos Mandos Militares y de Policía, Conferencias Bilaterales de Inteligencia, se constituyen en foros adecuados para el intercambio de experiencias en la lucha contra el terrorismo, así como para la suscripción y establecimiento de mecanismos permanentes que permitan unificar esfuerzos para combatir el terrorismo. 23/23

De igual manera, Colombia se encuentra dispuesta a considerar las iniciativas que surjan en foros internacionales como las Naciones Unidas, la Organización de Estados Americanos, el Comité Interamericano Contra el Terrorismo –CICTE- el Grupo de Río, la Comunidad Andina, el Movimiento de Países no Alineados y la Reunión Anual de Ministros de Defensa en materia de lucha contra el terrorismo.

e. Plan Movilización

El Ministerio de Defensa elaborará un plan de movilización que permita alcanzar la meta de 200.000 hombres en el Ejército Nacional en un período de un año, el cual será puesto a disposición del Presidente de la República para ser implementado, en caso de considerarlo necesario.

El Ministerio de Hacienda y el Departamento Nacional de Planeación establecerán un grupo de trabajo para apoyar la elaboración de este plan.

3. Tercera Estrategia: Robustecer la Capacidad Punitiva del Estado contra el Terrorismo

a. Fiscales y Jueces Especializados para Casos de Terrorismo

El nuevo Código de Procedimiento Penal prevé la existencia de Jueces Penales de Circuito Especializados y Fiscales Delegados ante los mismos en los delitos asociados a conductas terroristas, permitiendo que por la concentración de los casos en estos funcionarios judiciales, se agilicen los términos en los procesos y se unifiquen los criterios de juzgamiento.

b. Asignación Prioritaria de Defensores Públicos o de Oficio

Para evitar el vencimiento de términos procesales en el juzgamiento de casos de terrorismo, teniendo en cuenta la importancia de la seguridad pública y la especial protección a personas y bienes protegidos por el Derecho Internacional Humanitario como bienes jurídicos tutelados, la Defensoría del Pueblo y el Consejo Superior de la Judicatura adoptarán las medidas necesarias para que se adelante la asignación prioritaria de defensores públicos o de oficio a las personas involucradas en los mismos.

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c. Fortalecer el Programa de Protección de Testigos

Atendiendo la gran utilidad de este medio probatorio, el Gobierno Nacional promoverá el fortalecimiento de la seguridad para la comparecencia de testigos en los procesos judiciales contra el terrorismo, mediante la presentación de proyectos de Ley que modifiquen el Código Penal y el Código Disciplinario Unico para incluir sanciones más drásticas y procesos sumarios para los funcionarios que filtren información que ponga en riesgo la seguridad de los testigos protegidos en casos de terrorismo.

d. Programas de Promoción de la Dejación de Armas y de Sometimiento a la Justicia de Miembros de Grupos que Realicen Actividades Terroristas

Atendiendo el interés que asiste al Estado Colombiano de buscar alternativas que contribuyan en la búsqueda de la paz y que permitan a las personas vinculadas a grupos armados al margen de la ley que realicen actos terroristas reincorporarse a la sociedad, se trabaja conjuntamente entre instituciones con el fin de fortalecer los mecanismos que incentivan y regulan la dejación voluntaria de armas de manera individual.

Dentro de este esquema, actualmente se vienen desarrollando iniciativas conjuntas entre el Ministerio del Interior y el Ministerio de Defensa Nacional, orientadas a la dejación de armas por parte de miembros de grupos al margen de la ley a los cuales el Gobierno reconoce carácter político. Por el carácter de las decisiones que se adoptan, dichas iniciativas involucran a otras entidades como el Ministerio de Justicia y la Fiscalía General de la Nación.

Una vez definida la situación jurídica de aquellos miembros de grupos armados al margen de la ley que gozan de reconocimiento político que toman la decisión de abandonar las armas y acogerse a los mecanismos previstos en la Ley 418 y el Decreto 1385 de 1994, se prevén ayudas de carácter económico cuya asignación busca que el beneficiario desarrolle un proyecto de actividad económica que le permita derivar su sustento en adelante.

El propósito del Gobierno es el de fortalecer algunos puntos débiles derivados particularmente de la falta de coordinación entre las diversas instancias que intervienen en el mismo. Así, se propone mejorar el proceso de divulgación a los beneficiarios del programa y a las autoridades que intervienen en el desarrollo del mismo, con el fin de garantizar su efectividad. Esto se lleva a cabo por medio de la delimitación clara de competencias, donde el Ministerio de Defensa Nacional brinda el apoyo necesario en la primera fase del proceso, buscando que quien se entregue conozca los beneficios que se le brindan y sirviendo de interlocutor en todas las etapas que deben surtirse hasta la definición de la situación jurídica. Una vez solucionado este punto, el Ministerio del Interior se encarga del asesoramiento en materia de beneficios económicos y reincorporación a la sociedad.

De otra parte, el Gobierno estudiará los mecanismos que incentiven a miembros de otros grupos al margen de la ley para que abandonen las filas de sus organizaciones y se sometan a la justicia.

e. Fortalecimiento del Sistema Carcelario y Creación de un Régimen Especial para los Procesados y Condenados por Terrorismo

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Dentro de sus programas de incremento de la seguridad y el control estatal en las cárceles colombianas, el Gobierno hará un especial énfasis en garantizar máximas condiciones de seguridad y de disciplina en los centros de reclusión donde haya personas procesadas o condenadas por terrorismo. Para este efecto se dispondrá la creación de pabellones especiales donde regirá un reglamento aún más estricto que el convencional en materia de visitas, uniformes, comunicaciones con el exterior, horarios de rutina, disposición de elementos, como fue expuesto en el capítulo sobre la Política Integral de Seguridad.

III. Nuevas acciones contra el terrorismo.

Con el objetivo de dar un sustento a la Política Integral de Seguridad, de la cual hace parte *El Camino hacia la Paz y la Estrategia contra el Terrorismo,* el Gobierno Nacional impulsará las siguientes medidas en el marco de la lucha contra el terrorismo:

a. Exclusión de Beneficios para el Secuestro, la Extorsión y el Terrorismo

El Gobierno Nacional, a través del Ministerio de Justicia, y con el apoyo del Fondo para la Defensa de la Libertad Personal del Ministerio de Defensa y diversas ONG, como País Libre, impulsa ante el Congreso de la República el Proyecto de Ley No. 08 de 2001, por medio del cual se dictan medidas tendientes a erradicar los delitos de secuestro y extorsión y se expiden otras disposiciones, con el fin de aumentar la pena mínima y fortalecer el sistema punitivo contra el secuestro y la extorsión, medidas que serán aplicadas también en el caso del terrorismo. El proyecto de ley cumplió trámite en la Cámara de Representantes y se encuentra en debate en el Senado de la República.

b. Creación de Nuevos Tipos Penales

El Gobierno promoverá las iniciativas legislativas necesarias para la creación de nuevos tipos penales autónomos como la pertenencia a grupos que realicen actos terroristas, así como su financiación y apoyo. Igualmente, se estudiará la posibilidad de ampliar la responsabilidad por actos terroristas a todos los miembros de la organización o a quienes tengan personas bajo su mando.

c. Sistema de Responsabilidad Penal Juvenil

Dentro del marco de una nueva y robustecida política frente a la infancia, es fundamental cambiar completamente la filosofía de la responsabilidad penal juvenil. En efecto, el actual Código del Menor, al establecer la inimputabilidad para menores de 18 años, ha tenido un resultado perverso al ser aprovechada esta prerrogativa de los menores frente a la ley por el crimen organizado y la delincuencia común, acabando con generaciones enteras de niños y jóvenes, como ha sido el caso de los menores sicarios en Medellín y otras ciudades.

Es necesario proteger a los menores de convertirse en blanco fácil del reclutamiento para las organizaciones criminales. Con este objetivo, el Ministerio de Justicia y del Derecho impulsa un proyecto de ley por el cual se crea el Sistema de Responsabilidad Penal Juvenil, el cual se encuentra en trámite ante el Congreso de la República. En dicho proyecto las personas mayores de 12 años y que no hayan cumplido los 18 años de edad, a quienes se atribuya la comisión de una

conducta punible estarán sujetas al sistema de responsabilidad penal juvenil, clasificando las conductas de los juveniles en delitos graves, de especial gravedad, de gravedad intermedia y leves.

El delito de especial gravedad que puede cometer un juvenil consiste en la desaparición forzada, extorsión, concierto para delinquir, tortura, secuestro, terrorismo, genocidio, homicidio y acceso carnal violento.

d. Protección Especial al Congreso de la República

Con el fin de proteger a los congresistas, el Ministerio del Interior desarrollará un programa especial para reforzar su protección. Asimismo, teniendo en cuenta que en razón de sus funciones deben participar en la presentación, discusión y aprobación de las reformas normativas relacionadas con la lucha contra el terrorismo, el Gobierno Nacional promoverá la reforma a la respectiva Ley Orgánica, con el propósito de que las sesiones y las votaciones asociadas con este tipo de normas sean secretas.

e. Promoción al Apoyo Económico Voluntario a la Fuerza Pública

Se promoverá el apoyo económico voluntario de los particulares al Fondo de Defensa Nacional, cuyos recursos serán destinados al financiamiento de las actividades relacionadas con el cumplimiento de la misión constitucional de la Fuerza Pública.

f. Incremento de la Pena Mínima al Porte Ilegal de Armas

El Gobierno Nacional promoverá la revisión de la legislación vigente sobre el porte de armas buscando ampliar la cobertura de su castigo penal, es decir, haciendo no excarcelable el delito de porte ilegal de armas. Para este efecto se revisará adicionalmente el actual esquema de clasificación de armas. De igual manera se hará más severa la sanción por el uso de material privativo de las Fuerzas Militares.

g. Control de las Informaciones sobre Terrorismo en los Medios de Comunicación

El Gobierno Nacional convocará a los medios de comunicación para, de manera concertada, establecer acuerdos de autorregulación orientados a atenuar el impacto de las acciones terroristas en la opinión pública. Dichos acuerdos serán sujetos a revisión periódica para verificar su cumplimiento.

La autorregulación voluntaria tratará asuntos como la transmisión en directo de actos terroristas, comunicados y entrevistas de organizaciones o individuos que realicen dichos actos y protección de la identidad de personas que los presencien, teniendo en cuenta que según instrumentos internacionales, de los cuales nuestro país es Estado parte, el ejercicio del derecho a la libertad de expresión entraña deberes y responsabilidades especiales y por consiguiente, resultan válidas ciertas restricciones necesarias para la protección de la seguridad nacional, el orden público, o la salud o la moral públicas.

h. Creación de un Cuerpo Elite Antibioterrorismo

El Gobierno y los organismos de seguridad de Colombia quieren hacerle frente a las amenazas del bioterrorismo internacional. Con este fin se conformó el Grupo Elite Antibioterrorismo del cual hacen parte los Ministerios de Defensa, Justicia y Salud, la Fiscalía General de la Nación, el DAS y la Policía Nacional. Dicho grupo contará con el apoyo y asesoría del FBI.

i. Promoción de la Cooperación Ciudadana

El Gobierno Nacional incentivará la cooperación ciudadana en la prevención de actos de terrorismo y la captura de individuos vinculados a estas organizaciones. Se desarrollará legalmente el artículo 441 del Código Penal Colombiano que establece la obligación de los ciudadanos de informar inmediatamente a la autoridad el conocimiento de cualquier indicio, actividad o persona relacionado con actos de terrorismo. Complementario a estos desarrollos legales, se establecerá un programa de recompensas para los ciudadanos que colaboren con las autoridades en la prevención de actos de terrorismo y en la denuncia de los miembros de organizaciones terroristas.

j. Recompensas por Denuncias de Bienes

El Gobierno Nacional presentará al Congreso de la República un proyecto de ley mediante el cual se establezca un sistema de recompensas e incentivos para la denuncia de bienes pertenecientes a organizaciones o personas vinculadas al terrorismo. Las personas que realicen estas denuncias podrán ser beneficiarias hasta en un 40% del valor total del bien, sin perjuicio de los demás beneficiarios establecidos.

28
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k. Adopción de Nuevos Instrumentos Internacionales

El Gobierno Nacional ha decidido presentar para la aprobación del Congreso de la República diversos instrumentos internacionales: el Protocolo para la Represión de Actos Ilícitos de Violencia en los Aeropuertos que presten Servicio a la Aviación Civil Internacional, el Convenio sobre la Marcación de Explosivos Plásticos para los Fines de Detección, el Convenio para la Represión de Actos Ilícitos contra la Seguridad de la Navegación Marítima, el Protocolo para la Represión de Actos Ilícitos contra la Seguridad de las Plataformas Fijas Emplazadas en la Plataforma Continental y la Convención sobre la Protección Física de los Materiales Nucleares.

Así mismo el Presidente de la República procederá a la suscripción del Convenio Internacional contra la Financiación del Terrorismo ante la Organización de las Naciones Unidas.

De otra parte, a nivel del gobierno, se está analizando la conveniencia de iniciar los trámites para la ratificación de otros importantes tratados internacionales, como son la Convención Internacional contra la Toma de Rehenes ; el Convenio Internacional para la Represión de los Atentados Terroristas Cometidos con Bombas. También se promoverán acuerdos de cooperación con entidades financieras privadas y Gobiernos extranjeros para ubicar dineros y valores en el exterior de los grupos que realicen acciones terroristas.

Es necesario señalar que existen otros instrumentos internacionales que serán muy útiles en la lucha contra el terrorismo, adicionales a los acuerdos de cooperación judicial en materia penal, los cuales se encuentran a consideración del Congreso de la República, de los cuales deben resaltarse la Convención Interamericana contra la Fabricación y el Tráfico Ilícito de Armas de Fuego, Municiones, Explosivos y otros Materiales Relacionados y la Convención de las Naciones Unidas contra la Delincuencia Organizada Transnacional.

Finalmente, una vez el Congreso culmine la reforma a la Constitución que permita hacer viable en Colombia la existencia de la Corte Penal Internacional, proceso que en este momento se encuentra en marcha, el Gobierno Nacional presentará al Congreso la ratificación de este instrumento el cual debe constituirse en un instrumento en la lucha contra el terrorismo.